

*The Criminal Tribes Bill.**(Restriction of Movements of Criminal Tribes. Reformatory Settlements and Schools. Rules.)*

(2) Every such report shall state—

[Cf. Act, ss. 3 and 4.]

- (i) the nature and the circumstances of the offences in which the members of the criminal tribe are believed to have been concerned, and the reasons for such belief;
- (ii) whether such criminal tribe follows any lawful occupation, and whether such occupation is in the opinion of the Local Government the real occupation of such criminal tribe, or a pretence for the purpose of facilitating the commission of crimes, and the grounds on which such opinion is based;
- (iii) the area to which it is proposed to restrict the movements of such criminal tribe, or the place of residence in which it is proposed to settle it; and
- (iv) the manner in which it is proposed that such criminal tribe shall earn its living within the restricted area or in the settlement, and the arrangements which are proposed to be made therefor.

[Cf. Act, ss. 5, 13 and 15.]

12. If on the consideration of any such report the Governor General in Council is satisfied—

- (a) that it is expedient to restrict the movements of such criminal tribe, or to settle it in a place of residence, and
- (b) that the means by which it is proposed that such criminal tribe shall earn its living are adequate,

he may authorize the Local Government to publish in the local official Gazette a notification declaring that such criminal tribe shall be restricted in its movements to the area specified or shall be settled in the place of residence specified, and the Local Government may publish a notification accordingly.

[Cf. Act, ss. 14.]

13. The Local Government may at any time by a like notification vary the terms of any notification published by it under section 12 by specifying another area to which the movements of the criminal tribe shall be restricted, or another place of residence in which it shall be settled.

[New.]

14. Every registered member of a criminal tribe, whose movements have been restricted or which has been settled in a place of residence, shall attend at such place and at such time and before such person as may be prescribed in this behalf.

[Cf. Act, ss. 16.]

15. When the area to which the movements of a criminal tribe or any members thereof are restricted, or the place of residence in which a criminal tribe is settled, is situated in a district other than that in which the register mentioned in section 4 was prepared, the register shall be transferred to the District Superintendent of Police of the district in which the said area is situated, and the District Magistrate of the said district shall thereupon be empowered to exercise the powers provided in sections 7, 8 and 9.

Reformatory Settlements and Schools.

16. The Governor General in Council or the Local Government may establish reformatory settlements and may place therein any criminal tribe or any part thereof, in respect of which a notification has been published under section 12.

17. (1) The Local Government may establish reformatory schools for children and may separate and remove from their parents or guardians and place in such schools the children of members of any criminal tribe in respect of which a notification has been published under section 12.

(2) For every reformatory school established under sub-section (1), a Superintendent shall be appointed by the Local Government.

(3) The provisions of sections 18 to 22 (both VIII of 1897, inclusive) of the Reformatory Schools Act, 1897, shall, so far as may be, apply in the case of every reformatory school for children established under this section, as if the Superintendent of such school were a Superintendent and the children placed in such school were youthful offenders within the meaning of that Act.

Explanation.—For the purposes of this section the term “children” includes all persons under the age of eighteen and above the age of four years.

18. The Local Government may at any time, by general or special order, direct any person who may be in any reformatory settlement or school in the Province,—

- (a) to be discharged, or
- (b) to be removed to some other reformatory settlement or school in the Province.

19. The Governor General in Council may, by like order, direct that any person to whom the provisions of section 16 or section 17 are applicable may be placed in, or transferred to, any reformatory settlement or school in any part of British India.

Rules.

20. (1) The Local Government may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for and regulate—

- (a) the form and contents of the register prescribed in section 4;
- (b) the mode in which the notice prescribed in section 5 shall be published and the means by which the persons whom it concerns, and the village-headmen, village-watchmen and landowners or occupiers of the village in which such

*The Criminal Tribes Bill.**(Rules. Penalties and Procedure).*

persons reside, or the agents of such landowners or occupiers, shall be informed of its publication ;

(c) the addition of names to the register and the removal of names therefrom, and the mode in which the notice prescribed in section 7 shall be given ;

(d) the mode in which persons mentioned in section 10 shall report themselves, or notify their residence or any change or intended change of residence or any absence or intended absence ;

(e) the nature of the restrictions to be observed by persons whose movements have been restricted by notification under section 12 or section 13 ;

(f) the conditions as to holding passes under which persons may be permitted to leave the place in which they are settled or confined or the area to which their movements are restricted ;

(g) the conditions to be inserted in any such pass in regard to—

(i) the places where the holder of the pass may go or reside ;

(ii) the persons before whom, from time to time, he shall be bound to present himself ; and

(iii) the time during which he may absent himself ;

(h) the place and time at which and the persons before whom members of a criminal tribe shall attend in accordance with the provisions of section 14 ;

(i) the inspection of the residences and villages of any criminal tribe ;

(j) the terms upon which registered members of criminal tribes may be discharged from the operation of this Act ;

(k) the management, control and supervision of reformatory settlements and schools ;

(l) the works on which, and the hours during which, persons placed in a reformatory settlement shall be employed, the rates at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour ; and

(m) the discipline to which persons endeavouring to escape from any reformatory settlement or school, or otherwise offending against the rules for the time being in force, shall be subject, the periodical visitation of such settlement or school and the removal from it of such persons as it shall seem expedient to remove.

Penalties and Procedure.

21. Whoever, being a member of a criminal tribe, without lawful excuse, the burden of proving which shall lie upon him,—

(a) fails to appear in compliance with a notice issued under section 5 or section 7, or

(b) intentionally omits to furnish any information required under those sections, or,

(c) when required to furnish information under either of those sections furnishes, as true any information which he knows or has reason to believe to be false, or

(d) refuses to allow his finger-impressions to be taken,

may be arrested without warrant, and shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both. [Cf. Act, 19.]

22. (1) Whoever, being a registered member of a criminal tribe, violates a rule made under clause (e), clause (f) or clause (g) of section 20 shall be punishable with imprisonment for a term which may extend,—

(a) on a first conviction, to one year,

(b) on a second conviction, to two years, and

(c) on any subsequent conviction, to three years.

(2) Whoever, being a registered member of a criminal tribe, violates a rule made under any other clause of section 20 shall be punishable,—

(a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both ; and

(b) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both. [Cf. Act, 19 A.]

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of 1850.

23. Whoever, being a member of any criminal tribe, and having been convicted of any of the offences under the Indian Penal Code specified in the schedule, is thereafter convicted of the same or any other offence specified in the said schedule, shall, in the absence of special reasons to the contrary to be mentioned in the judgment of the Court, be punished,—

(a) on a second conviction, with imprisonment for a term of not less than seven years, and [Cf. Act, 19 B.]

(b) on a third conviction, with transportation for life.

24. Whoever, being a registered member of any criminal tribe, is found in any place under such circumstances as to satisfy the Court—

(a) that he was about to commit, or aid in the commission of, theft or robbery, or

(b) that he was waiting for an opportunity to commit theft or robbery,

shall be punishable with rigorous imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees. [Cf. Act, 20.]

25. (1) Whoever, being a registered member of a criminal tribe,—

Arrest of registered person found beyond prescribed limits.

[Cf. Act, s. 9.]

*The Criminal Tribes Bill.**(Penalties and Procedure. Supplemental. The Schedule.)*

- (a) is found in any part of British India, beyond the area, if any, prescribed for his residence, without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass; or
- (b) escapes from a reformatory settlement or school,

may be arrested without warrant by any police-officer or village-watchman, and taken before a Magistrate, who, on proof of the facts, shall order him to be removed to the district in which he ought to have resided or to the reformatory settlement or school from which he has escaped (as the case may be), there to be dealt with in the prescribed manner.

(2) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any other provision of this Act:

Provided that an order from the Local Government or from the Inspector General of Prisons shall not be necessary for the removal of such persons.

[Cf. Act, s. 26.] (1) Every village-headman and village-watchman in a village in which any persons belonging to a criminal tribe reside, and every owner or occupier of land on which any such persons reside or the agent of any such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police-station any information which he may obtain of—

- (a) the failure of any such person to appear and give information as directed in section 5; or
- (b) the departure of any registered member of a criminal tribe from such village or from such land (as the case may be).

(2) Every village-headman and village-watchman in a village, and every owner or occupier of land or the agent of such owner or occupier, shall forthwith communicate to the officer in charge of the nearest police-station any information which he may obtain of the arrival at such village or on such land (as the case may be) of any persons who may reasonably be suspected of belonging to any criminal tribe.

[Cf. Act, s. 27.] Any village-headman, village-watchman, owner or occupier of land, or the agent of such owner or occupier, who fails to comply with the requirements of section 26, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code.

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Supplemental.

[Cf. Act, s. 28.] No Court of justice shall question the validity of any notification published under the provisions of section 3, section 12 or section 13 on the ground that the provisions hereinbefore contained or any of them have not been complied with, or entertain in any form whatever the question whether they have been complied with; but every such notification shall be conclusive proof that it has been issued in accordance with law.

29. The Criminal Tribes Act, 1871, the Criminal Tribes (Amendment) Act, 1876, and the Criminal Tribes (Amendment) Act, 1897, are hereby repealed. XXVII of 1871. VII of 1876. II of 1897.

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*The Criminal Tribes Bill.**(The Schedule.)*

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STATEMENT OF OBJECTS AND REASONS.

Act XXVII of 1871, which contains the existing law on the subject of criminal tribes, does not allow of such tribes being proclaimed and registered unless they are first settled and provided with means of living by Government. The application of the Act is thus greatly restricted, and the majority of these tribes are left free to wander and commit crimes without any adequate check on their movements and depredations. Useful control can be exercised without restricting unduly the movements of the members of these tribes and without, therefore, the need for providing means of livelihood which is properly made a condition of settlement. The object of this Bill is to enlarge the power of control by enabling Local Governments to proclaim criminal tribes, and provide for the registration of their members, without reference to the possibility of settlement or of the provision of means of living. The provisions regarding settlement, however, are retained, with such modifications as are necessary, for application, if required, after the proclamation of a tribe; but before the movements of a tribe can be restricted to a specified area the Local Government must satisfy the Governor General in Council that the means by which it is proposed that the tribe shall earn its living within that area are adequate.

2. The details of the new provisions, and of all amendments of importance, are explained in the *Notes on clauses*.

J. L. JENKINS.

The 21st May 1910.

Notes on clauses.

The Bill proposes to repeal the Criminal Tribes Act, 1871. The provisions of Part II of the Act relating to eunuchs are in force only in the United Provinces, and it is proposed with the assent of the Local Government not to reproduce them in the Bill. It is proposed to extend the new Act, which corresponds to Part I of the present Act, to the whole of British India. Its provisions are permissive only and are applicable throughout.

Definitions.—These call for no special remarks.

Clause 3.—The intention is to give power to Local Governments to declare a tribe to be criminal, and thereafter to register members, to take finger-prints and generally put the tribe under observation. The power of subsequently restricting them or confining them to a settlement will remain guarded in the same way as it now is by sections 2 to 4 and sections 17 and 17A of the present Act, *vide* clauses 11 and 12 and 16 and 17.

Clause 4 follows section 7 of the Act. It may be necessary to register part of the tribe in one district and part in another or others, especially in the case of wandering tribes and those which reside in scattered groups. Such registration will always be a matter of great difficulty, and the power to register should therefore be made as wide as possible.

Procedure in making register.

Clause 5 follows section 8 of the Act and adds a provision for taking finger-impressions.

Charge of register.

Clause 6 follows section 10 of the Act.

Clause 7 follows section 11 of the Act, but dispenses with, as unnecessary, the provision requiring the Magistrate's initials and his order for every addition of information regarding persons already registered.

Clause 8 follows section 12 of the Act, but omits the second paragraph requiring reasons to be recorded for an order for erasure from the register. The recording of reasons in such a case is not required for the protection of the subject and, on the other hand, no Magistrate is likely to order an erasure unless there are clear reasons for doing so.

The third paragraph of the existing section 12, which gives the Commissioner power to review the Magistrate's order, also is omitted as, in practice, the Magistrate's order is seldom modified by the Commissioner, and it is in accordance with tendencies to decentralize authority as far as possible. It is, however, recognised that an order of registration does impose heavy disabilities on the subject of it, and an appeal to the Commissioner as regards such orders will be allowed if the Local Governments desire it.

Clause 9 provides specific power to take fresh finger-impressions which will often be necessary, although first impressions can be taken under sections 5 and 7.

Clause 10 is a new provision to empower the Local Government without a previous reference to the Government of India to direct a registered member of a criminal tribe to notify his residence, and any absence from or change of residence.

Clause 11 prescribes the procedure to be followed when it is desired (a) to restrict the movements of a criminal tribe to a specified area, or (b) to settle it in any place of residence. The clause follows closely sections 3 and 4 of the Act.

Clause 12 is based on sections 5 and 13 to 15 of the Act, and gives authority to the Governor General in Council to sanction the restriction or settlement referred to in the preceding clause.

Clause 13.—It is considered that the movements of a tribe should be restricted to an area which should be large enough to enable them to earn a living while small enough to insure their being kept under efficient observation; that this area should not be larger than a district, but that it should be permissible to allow the district to which movement is restricted to be changed from time to time.

Clause 14.—The provisions of this clause, which require every registered member of a criminal tribe whose movements have been restricted to report himself in order that it may be ascertained whether he is present within the prescribed area, are embodied by implication in clause (7) of section 18 of the Act, but it is considered desirable to have a substantive provision on the subject instead of leaving it to the rule-making clause.

Clause 15.—This follows section 16 of the Act, but omits reference to the Commissioner because in practice the Magistrate's order is seldom modified and with the object of decentralising authority (*vide* the remarks on clause 8).

Clause 16 follows section 17 of the Act; concurrent power being given to the Governor General in Council in order to enable provision to be made for extra-provincial settlements.

Clause 17 follows section 17A of the Act. In sub-clause (1) the words "or guardians" have been added after "parents" as it is considered that it might be desirable to remove children whose parents are dead or absent. In sub-clause (3) the Reformatory Schools Act, VIII of 1897, has been followed, as the power of employing inmates of reformatory schools under license which is given by section 18 of the Reformatory Schools Act is found in practice to be more useful than the power to apprentice. The latter power is, however, given in section 22 of the Reformatory Schools Act and has been included. The Bill makes the section applicable to the children of such tribes only as have, under the authority of the Governor General in Council, been restricted to a specified area or settled in a place of residence.

Clause 18 follows section 14 of the Reformatory Schools Act, but an addition has been made by which the order for removal or discharge may be general or special.

Clause 19 follows section 15 of the Reformatory Schools Act.

Clause 20 is in the main identical with section 18 of the Act and such changes as have been made explain themselves. Clause (10) of section 18 has been omitted as it seemed unnecessary, the ground being covered by sub-clauses (e) and (f) of this clause. It is considered desirable to make provision for the grant of passes to persons settled in places of residence and placed in reformatory settlements, and this has been done by clause 20 (f).

Clause 21 follows section 9 of the Act, but a specific penalty has been provided for the offences instead of bringing them under sections 174, 176 and 177 of the Indian Penal Code. It is proposed that the amount of fine should be reduced to Rs. 200 as more proportionate to the class of offence to be dealt with and also to the powers of the class of Magistrate competent to deal with the case. The offences have been made cognizable, as it is most important that the police should have power to arrest without warrant. Refusal to allow finger-marks to be taken has also been made an offence.

Penalties and procedure.

Clauses 22 to 27 follow sections 19 to 22 of the Act.

The amount of fine is not specified in the Act. It is now the universal practice when fines are provided for to specify the amount and not leave the matter to the discretion of Courts. It is accordingly proposed that Rs. 200 should be fixed for clause 22 (2) (a), Rs. 500 for clause 22 (2) (b), and Rs. 1,000 for clause 24 of the Bill as proportionate to the class of offence to be dealt with and to some extent to the power of the Magistrate competent to deal with the case. Sections 19 and 19A of the Act provide that the imprisonment shall be rigorous, and section 19 renders the offender also liable to whipping. It is thought desirable to omit the liability to whipping and to leave the Court free to impose imprisonment of either description. Clauses 22 and 23 embody these views.

Clause 28 follows section 6 of the Act. It has been revised in accordance with the alteration in clause 3 of the Bill and placed at the end of the Act where it is considered most appropriate.

Schedule.—The schedule to the present Act enumerates the offences for which, under section 19A, the minimum punishment to a member of a criminal tribe committing them is prescribed. Offences against the coinage and house-breaking by night are omitted from the schedule. As certain criminal tribes are specially addicted to these crimes, they have been included in the schedule attached to the Bill.

Under the present Act the sanction of the Governor General in Council is required for nearly every act of the Local Government. This involves an unnecessary and undesirable centralization of powers, and accordingly the Bill gives Local Governments full powers except in respect of action to be taken under clause 12.

R. SHEEPSHANKS,

Offg. Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd July, 1910 :

NO. 13 OF 1910.

A Bill further to amend the Indian Tramways Act, 1886.

XI of 1886. WHEREAS it is expedient further to amend the Indian Tramways Act, 1886; It is hereby enacted as follows:—

1. This Act may be called the Indian Tramways (Amendment) Act, 1910.

XI of 1886. 2. For section 3, clause (5), of the Indian Tramways Act, 1886, the following shall be substituted, namely:—

“(5) ‘tramway’ means a tramway having one or two or more rails, and includes—

- (a) any part of a tramway, or any siding, turn-out, connection, line or track belonging to a tramway;
- (b) any electrical equipment of a tramway; and
- (c) any electric supply-line transmitting power from a generating station or sub-station to a tramway or between any such generating station and a sub-station.”

3. In section 3, clause (9), of the said Act, after the words “steam-power” the words “electrical power” and after the word “producing” the words “or utilising” shall be inserted.

4. For section 7, sub-section (2), clause (e), of the said Act, the following shall be substituted, namely:—

“(e) the space which shall ordinarily intervene between the outside of the carriage way on either side of a road whereon the tramway is to be constructed, and—

- (i) in the case of a tramway having one rail, the rail of the tramway, or
- (ii) in the case of a tramway having two or more rails, the nearest rail of the tramway,

and the conditions on which a smaller space may be permitted.”

5. In section 7, sub-section (2), clause (m), of the said Act, after the word “steam-power” the words “electrical power” shall be inserted.

6. In section 24, sub-section (1), clause (e), of the said Act, after the word “steam-power” the words “electrical power” shall be inserted.

7. In section 44 of the said Act, after the word “engine-sheds” the words “electrical generating stations or sub-stations” shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

THIS Bill has two objects; the application of the Indian Tramways Act, 1886, to monorails, and the inclusion within the provisions of that Act of tramways worked by electricity.

2. Under existing law a monorail may be either a railway or a tramway, according to the circumstances in which it may have been constructed. It is not considered desirable that monorails, which are usually designed for the local transit of goods over very short distances, should be subject to all the limitations imposed by the Indian Railways Act, 1890, until the necessity for their being so subject has been fully demonstrated. It is therefore proposed to free them from those limitations and to treat them as tramways.

3. The Indian Tramways Act, 1886, was passed before the introduction into India of electric traction; and it is desirable that it should now be so amended as to bring electric tramways within its scope.

B. ROBERTSON.

The 6th July, 1910.

Notes on Clauses.

Clause 2.—This clause substitutes for the existing definition of “tramway” a definition—

- (a) making it clear that the term includes a monorail, and
- (b) bringing within the definition the electric appliances necessary to a line worked by electric traction.

Clause 4 makes an amendment in the existing law consequential on the application of the Act to monorails.

Clauses 3, 5, 6 and 7 make such amendments in the sections to which they relate as are necessary to subject lines worked by electric traction to the provisions of the Act.

R. SHEEPHANKS,

Offg. Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd July, 1910 :

No. 14 OF 1910.

A Bill further to amend the Cantonments Act, 1889.

XIII of 1889. WHEREAS it is expedient further to amend the Cantonments Act, 1889; It is hereby enacted as follows :—

1. This Act, may be called the Cantonments (Amendment) Act, 1910.
Short title.

XIII of 1889. 2. For section 17, sub-section (2), of the Cantonments Act, 1889, the following shall be substituted, namely :—
Amendment of section 7, sub-section (2), Act XIII, 1889.

"(2) When any tax is leviable in a cantonment in pursuance of a notification under sub-section

(1), the Local Government, subject to the like sanction, may, by a like notification, apply or adapt to the cantonment the provisions of any enactment or rules in force at the date of the notification in any municipality within the territories administered by such Government relating to—

- (a) the assessment, collection or recovery of any tax ;
- (b) the refund or revision of, or exemption from, any such tax ; and
- (c) the punishment of any breach of such enactment or rules."

3. In section 26, clause (17), of the said Act, after the words "traffic on roads" the words "and across unenclosed spaces under the control of the Cantonment-authority" shall be inserted.
Amendment of section 26, Act XIII, 1889.

STATEMENT OF OBJECTS AND REASONS.

In applying or adapting to a cantonment, under section 17, sub-section (2), of the Cantonments Act, 1889, enactments or rules in force in a municipality for the assessment and recovery of a tax, provisions for the punishment of a breach thereof cannot, however, be similarly applied or adapted. Such a provision has now to be separately notified under section 25 of the Act. It has therefore been considered desirable to expand the provisions of the above sub-section so as to cover the application or adaptation of a penal rule or enactment.

Further, it has been found necessary to provide against the creation of short cuts and the establishment of rights of way across parade-grounds, regimental recreation-grounds, ornamental plots and other grass lands, as also unenclosed spaces near barracks in cantonments.
Section 26, sub-section (17).

It has been found that no sufficient power at present exists to prevent these unenclosed spaces being cut up by cart-wheels and fouled with the droppings of oxen and ponies, to the detriment of the appearance of the cantonment, loss to the funds and, occasionally, some danger to health and the general safety. It is therefore necessary to regulate traffic across unenclosed spaces under the control of the Cantonment-authority.

It is intended that a notification of prohibition of thoroughfare, where it is found necessary to restrict traffic, shall be conspicuously placed by the Cantonment-authority so that persons found disregarding the warning might be dealt with under the power now sought.

The 16th July 1910.

O'M. CREAGH.

R. SHEEPSHANKS,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 6, 1910.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 5th August, 1910:

No. 15 OF 1910.

THE INDIAN ARMY BILL.

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*The Indian Army Bill.**(Chapter I.—Preliminary.)*

A Bill to Consolidate and amend the law relating to the government of His Majesty's Native Indian Forces.

WHEREAS it is expedient to consolidate and amend the law relating to the government of the Native officers, soldiers and other persons in His Majesty's Indian Army; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Army Act, 191 .
Short title and commencement.

(2) It shall come into force on the day of 191 .

Application of Act.

Part 1 (a).] 2. (1) The following persons shall be subject to this Act, namely:—
Persons subject to Act.

- (a) Native officers and warrant officers;
- (b) persons enrolled under this Act;
- (c) persons not otherwise subject to military law, who, on active service, in camp, on the march, or at any frontier post specified by the Governor General in Council by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, His Majesty's Indian Forces:

4 & 45 Vict., 58. Provided that if any person claims to belong to a class to which the Army Act is, and this Act is not, applicable, the burden of proving that he belongs to that class shall lie upon him.

A. A. 92(1).] (2) Every person subject to this Act under sub-section (1), clause (a) or (b), shall remain so subject until duly discharged or dismissed.

Draft 2 (1), 2) & (3).] 3. (1) The Governor General in Council may, by notification, direct that any persons or class of persons subject to this

Special provision as to rank in certain cases. Act shall, for the purposes of all or any of the provisions of this Act, be deemed to be Native officers, warrant officers or non-commissioned officers and may authorize any officer to give a like direction with respect to any such person and to cancel such direction.

Draft 2 (4).] (2) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

[2 (6).] 4. Every person subject to this Act under section 2, sub-section (1), clause

Commanding officer of persons subject to military law under section 2, clause (c). (c), shall, for the purposes of this Act, be deemed to be under the commanding officer of the corps, department or detachment (if any) to which he is attached, and if he is not attached to any corps, department or detachment, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving,

or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force:

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

5. (1) The Governor General in Council [191.] may, by notification, apply all or any of the provisions of this Act to any force raised and maintained in India under the authority of the Governor General in Council.

(2) While any of the provisions of this Act apply to any such force, the Governor General in Council may, by notification, direct by what authority any jurisdiction, powers or duties incident to the operation of these provisions shall be exercised or performed in respect of that force.

6. (1) Whenever persons subject to this Act [Draft 162.] are serving out of India Officers to exercise powers in case of foreign service. under an officer not subject to the authority of the Governor General in Council, the Governor General in Council may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding armies, divisions and brigades, shall, as regards such persons, be exercised.

(2) The Governor General in Council may confer such powers either absolutely, or subject to such restrictions, reservations, exceptions and conditions as he may think fit.

Definitions.

7. In this Act, unless there is something repugnant in the subject or context,—

(1) "British officer" means a person holding a commission in His Majesty's land forces:

(2) "Native officer" means a person commissioned, gazetted or in pay as an officer holding a Native rank in His Majesty's Indian Forces:

(3) "warrant officer" means a person appointed, gazetted or in pay as a Native warrant officer in His Majesty's Indian Forces: [New.]

(4) "non-commissioned officer" means a combatant holding a Native non-commissioned rank in His Majesty's Indian Forces, and includes an acting non-commissioned officer: [New.]

(5) "officer" means a British officer or Native officer, but does not include a warrant officer or non-commissioned officer:

(6) "commanding officer", when used in any provision of this Act with reference to any separate portion of His Majesty's forces or to any department, means the British officer whose duty it is under the regulations of the army, or, in the absence of any such regulation, by the custom of the service, to discharge with respect to that portion of the forces or that department the functions of commanding officer in regard to matters of the description referred to in that provision:

*The Indian Army Bill.**(Chapter I.—Preliminary. Chapter II.—Enrolment and Attestation.)*

(7) "superior officer", when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer; and, as regards persons placed under his orders, a warrant officer or non-commissioned officer subject to the Army Act:

[New.]
44 & 45
Vict., c. 58.

(8) "army", "division" and "brigade" mean respectively an army, division or brigade which is under the command of an officer subject to the authority of the Governor General in Council:

(9) "corps" means a unit of command, such as a regiment of cavalry, a regiment or battalion of infantry, a battery of artillery, and any other separate body of troops which is declared by the Governor General in Council by general or special order to be a corps for the purposes of all or any of the provisions of this Act, and includes an army hospital corps and a transport corps:

[New.]

(10) "independent brigade" means a brigade which does not form part of a division:

(11) "department" includes any division or branch of a department:

(12) "enemy" includes all armed mutineers, armed rebels, armed rioters and pirates:

(13) "active service", as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged in military operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country:

(14) "military custody" means the arrest or confinement of a person according to the usages of the service:

(15) "military reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other military pecuniary reward:

(16) "court-martial" means a court-martial held under this Act:

(17) "criminal court" means a court of ordinary criminal justice in British India, or established elsewhere by the authority of the Governor General in Council:

(18) "civil offence" means an offence which, if committed in British India, would be triable by a criminal court:

(19) "offence" means any act or omission punishable under this Act, and includes a civil offence as hereinbefore defined:

(20) "notification" means a notification published in the Gazette of India:

(21) "prescribed" means prescribed by rules made under this Act: and

(22) all words and expressions used herein and defined in the Indian Penal Code and not hereinbefore defined shall be deemed to have the meanings respectively attributed to them by that Code.

CHAPTER II.

ENROLMENT AND ATTESTATION.

Enrolment.

8. Upon the appearance before the prescribed [Draft 1 (1).]
enrolling officer of any
person desirous of being en-
rolled, the enrolling officer
shall read and explain to him, or cause to be read
and explained to him in his presence, the condi-
tions of the service for which he is to be enrolled;
and shall put to him the questions set forth in
the prescribed form of enrolment, and shall,
after having cautioned him that if he makes a
false answer to any such question he will be
liable to punishment under this Act, record his
answer to each such question.

9. If, after complying with the provi- [Draft 1 (1).]
sions of section 8, the
enrolling officer is satis-
fied that the person desirous of being enrolled
fully understands the questions put to him
and consents to the conditions of service, and
if he perceives no impediment, he shall sign the
enrolment paper, and the person shall then be
deemed to have been enrolled.

10. Every person who has for the space [Act V of
of six months been in 1875, s. 1.]
the receipt of military
pay and been borne on the
rolls of any corps or de-
partment (of which the last pay statement, if
produced, shall be evidence) shall be deemed
to have been duly enrolled, and shall not be
entitled to claim his discharge on the ground
of illegality or irregularity in his enrolment.

Attestation.

11. The following persons shall be attested, [Draft 1 (2).]
namely:—
Persons to be attest-
ed.

(a) all persons enrolled as combatants;

(b) all enrolled persons other than comba-
tants whom the Governor General in
Council may, by rules made in this
behalf, order to be attested.

12. (1) When a person who is to be [Draft 1 (1).]
attested is reported fit for
duty, or has completed the
prescribed period of probation, an oath shall be
administered to him in the prescribed form by the
commanding officer in front of the corps or such
portion thereof or such members of the department
as may be present or by any other prescribed
person.

(2) The form of oath prescribed under this [1 (4).]
section shall contain a promise that the person to
be attested will be faithful to His Majesty, His
heirs and successors, and that he will serve in His
Majesty's Indian Forces and go wherever he is
ordered by land or sea, and that he will obey all
commands of any officer set over him, even to the
peril of his life.

(3) The fact of an enrolled person having [Draft 1 (4).]
taken the oath directed by this section to be taken
shall be entered on his enrolment paper, and
authenticated by the signature of the officer
administering the oath.

The Indian Army Bill.

(Chapter III.—Dismissal and Discharge. Chapter IV.—Summary Reduction and Punishments otherwise than by order of Court-martial.)

CHAPTER III.

DISMISSAL AND DISCHARGE.

[3 and 4 (1) (a).] 13. The Governor General in Council or the Commander-in-Chief in India may dismiss or discharge from the service any person subject to this Act.

[4 (1) (b).] 14. An officer commanding an army, division or brigade, or any prescribed officer, may dismiss or discharge from the service any person subordinate to him other than a Native officer.

[155.] 15. Every person sentenced by any court-martial or by any criminal court to transportation or to rigorous imprisonment for any term exceeding three months, shall be dismissed from the service by his commanding officer:

Provided that on active service any such person may be retained to serve in the ranks, and his service therein shall be reckoned as part of his term of transportation or imprisonment.

16. An officer commanding a corps or department may—

[5.] (a) dismiss from the service any person of or below the rank of non-commissioned officer serving in such corps or department who has been previously dismissed or discharged from the service and has re-entered the service without at the time of such re-entry stating the fact of his previous dismissal or discharge, or showing his certificate of dismissal or discharge;

[Draft 4 (2).] (b) discharge from the service any enrolled person other than a person who has been attested under section 12;

[New.] (c) discharge from the service any person entitled either under the conditions of his enrolment or under the regulations of the army to be so discharged.

[4 (2).] 17. An officer commanding a mounted corps may discharge from the service any person enrolled as a combatant who has served in such corps for less than three years if in his opinion such person is not a good rider.

[6.] 18. Every enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate, in the English language and in the mother tongue of such person (when his mother tongue is not English), setting forth—

(a) the authority dismissing or discharging him;

(b) the cause of his dismissal or discharge;

(c) the full period of his service in the army.

[Draft 6 (1) and (2).] 19. (1) Any person enrolled under this Act who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and

who, when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(2) Any person enrolled under this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed.

(3) If any such person has been sentenced by court-martial to any punishment, such punishment may be inflicted before he is sent to India.

CHAPTER IV.

SUMMARY REDUCTION AND PUNISHMENTS OTHERWISE THAN BY ORDER OF COURT-MARTIAL.

20. The Commander-in-Chief in India, an officer commanding an army, division or brigade, or any prescribed officer, may reduce to a lower grade or to the ranks any non-commissioned officer under his command. [164.]

21. (1) The Commander-in-Chief in India may, subject to the control of the Governor General in Council, specify the minor punishments to which persons subject to this Act shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded. [165.]

(2) Imprisonment in military custody may be specified as such a minor punishment, provided that—

(a) the term of such imprisonment shall not exceed seven days; and

(b) it shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

22. Whenever any weapon forming part of the equipment of a company is lost or stolen, the officer commanding the army, division or independent brigade to which such company belongs may impose a collective fine upon the Native officers, non-commissioned officers and men of such company, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

Explanation.—In this section, “company” includes a half squadron, a battery, or any other similar unit, and “weapon” includes a part of a weapon.

23. (1) For any offence in breach of good order, the commanding officer of any corps or detachment, in camp, or at any frontier post specified by the Governor General in Council by notification in this behalf at which troops are stationed, may punish any Native follower of such corps or detachment who is subject to this Act under section 2, sub-section (1), clause (c)— [166.]

(a) if such follower is not a menial servant, with imprisonment for a term which may extend to thirty days, or with fine which may extend to fifty rupees.

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(Chapter IV.—Summary Reduction and Punishments otherwise than by order of Court-martial. Chapter V.—Offences.)

- (b) if such follower is a menial servant, with imprisonment for a term which may extend to seven days, or, if on active service, with corporal punishment not exceeding twelve strokes of a rattan :

(2) Imprisonment awarded under this section may be carried out in a military guard, or in a jail, as ordered by the said commanding officer; and the officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant, under the hand of the said commanding officer, detain the offender according to the exigency of the warrant or until he is discharged by due course of law.

Provost-Marshals.

- [168.] 24. For the prompt and instant repression of irregularities and offences committed in the field or on the line of march, provost-marshals may be appointed by the Commander-in-Chief in India or an officer commanding an army, division or independent brigade or an officer commanding the forces in the field; and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service.

- [169.] 25. (1) The duties of a provost-marshal so appointed are to take charge of prisoners confined for offences of a general description, to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the army.

(2) The provost-marshal may punish, corporally, then and there, any person subject to this Act below the rank of non-commissioned officer who, on active service and in his view or in the view of any of his assistants, commits any breach of good order and military discipline :

Provided that such punishment shall be limited to the necessity of the case, and shall accord with the orders which the provost-marshal may from time to time receive from the officer commanding the troops, and shall be inflicted with the regulation cat :

Provided also that the orders of the said commanding officer shall in no case authorise such corporal punishment in excess of that awardable by sentence of a court-martial.

(3) If the offender is not on active service or if the actual commission of the offence is not witnessed by the provost-marshal or any of his assistants, but sufficient proof can be obtained of the offender's guilt, he shall report the case to the officer commanding the troops, who shall deal with the case as he may deem most conducive to the maintenance of good order and military discipline.

CHAPTER V.

OFFENCES.

Offences in respect of Military Service.

26. Any person subject to this Act who commits any of the following offences, that is to say,—

- [14.] (a) shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend ; or

- (b) in presence of an enemy, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any person subject to military law to abstain from acting against the enemy, or to discourage such person from acting against the enemy, or who otherwise misbehaves ; or

- (c) directly or indirectly holds correspondence with, or communicates intelligence to, the enemy, or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his commanding or other superior officer ; or

- (d) treacherously makes known the watchword to any person not entitled to receive it according to the rules and discipline of war ; or

- (e) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State ; or

- (f) in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency ; or

- (g) being a sentry in time of war or alarm, or over any State-prisoner, treasure, magazine or dockyard, sleeps upon his post, or quits it without being regularly relieved or without leave ; or

- (h) in time of action, without authority, leaves his commanding officer or his post or colours or party to go in search of plunder ; or

- (i) in time of war, quits his guard, picquet, party or patrol without being regularly relieved or without leave ; or

- (j) in time of war or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessities to the camp or quarters of any of His Majesty's forces, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, injures or destroys any field, garden or other property of any kind ;

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

Explanation.—In clause (b) of this section "enemy" includes any person in arms against whom it is the duty of a person subject to military law to act.

27. Any person subject to this Act who commits any of the following offences, that is to say,—

- (a) strikes, or forces or attempts to force, any sentry ; or

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[46.] (b) in time of peace, intentionally occasions a false alarm in camp, garrison or cantonment; or

[13.] (c) being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge or under charge of his guard; or

[50.] (d) being a sentry, in time of peace, sleeps upon his post, or quits it without being regularly relieved or without leave;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Mutiny and Insubordination.

28. Any person subject to this Act who commits any of the following offences, that is to say,—
Offences punishable with death.

[7.] (a) begins, excites, causes or joins in any mutiny; or

[7.] (b) being present at any mutiny, does not use his utmost endeavours to suppress the same; or

[7.] (c) knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State, does not, without delay, give information thereof to his commanding or other superior officer; or

[8.] (d) uses or attempts to use criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such; or

[9.] (e) disobeys the lawful command of his superior officer;

shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

29. Any person subject to this Act who commits any of the following offences, that is to say,—
Offences not punishable with death.

[27.] (a) is grossly insubordinate or insolent to his superior officer in the execution of his office; or

[38.] (b) refuses to superintend or assist in the making of any field-work or other military work of any description ordered to be made either in quarters or in the field; or

[39.] (c) impedes a provost-marshal or an assistant provost-marshal, or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of a provost-marshal, or, when called on, refuses to assist, in the execution of his duty, the provost-marshal, assistant provost-marshal, or any such officer, non-commissioned officer or other person;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Desertion, Fraudulent Enrolment and Absence without Leave.

30. Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned. [10.]

31. Any person subject to this Act who commits any of the following offences, that is to say,—
Harbouring deserter, absence without leave, etc.

(a) knowingly harbours any deserter, or who, knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not immediately give notice to his own or some other superior officer, or use his utmost endeavours to cause such deserter to be apprehended; or [28.]

(b) knowing, or having reason to believe, that a person is a deserter, procures or attempts to procure the enrolment of such person; or [29.]

(c) without having first obtained a regular discharge from the corps or department to which he belongs, enrolls himself in any other corps or department; or [11.]

(d) absents himself without leave, or without sufficient cause overstays leave granted to him; or [30.]

(e) being on leave of absence and having received information from proper authority that his corps or department has been ordered on active service, fails, without sufficient cause, to re-join without delay; or [31.]

(f) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or [32.]

(g) when on parade, or on the line of march without sufficient cause or without leave from his superior officer quits the parade or line of march; or [33.]

(h) in time of peace, quits his guard, picket or patrol without being regularly relieved or without leave; or [34.]

(i) without proper authority is found two miles or upwards from camp; or [51.]

(j) without proper authority is absent from his cantonment or lines after tattoo, or from camp after retreat-beating; [52.]

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Disgraceful Conduct.

32. Any person subject to this Act who commits any of the following offences, that is to say,—
Disgraceful conduct.

(a) dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, [54.]

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tools, instruments, equipments or military stores of any kind, the property of Government, entrusted to him; or

(b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe the same to have been dishonestly misappropriated or converted; or

[55.] (c) wilfully destroys or injures any property of Government entrusted to him on the public account, or for any military purpose; or

[60.] (d) commits theft in respect of any property of Government, or of any military mess, band or institution, or of any person subject to military law, or serving with, or attached to, the army; or

[60.] (e) dishonestly receives or retains any such property as is specified in clause (d) knowing or having reason to believe it to be stolen; or

[64.] (f) does any other thing with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person; or

[58.] (g) malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity; or

[59.] (h) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person; or

[35.] (i) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Intoxication.

[26.] 33. Any person subject to this Act who is in a state of intoxication, whether on duty or not on duty, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Persons in Custody.

[18.] 34. Any person subject to this Act who, without proper authority, releases any State prisoner, enemy or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape, shall, on conviction by court-martial, be punished with death, or with such less punishment as is in this Act mentioned.

35. Any person subject to this Act who commits any of the following offences, that is to say,—

[35.] (a) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge; or

(b) without proper authority releases any prisoner or person placed under his charge, or negligently suffers any such prisoner or person to escape; or

(c) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority; [36.]

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Property.

36. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) commits extortion, or without proper authority exacts from any person carriage, portage or provisions; or [41.]

(b) in time of peace, commits house-breaking for the purpose of plundering, or plunders, destroys or damages any field, garden or other property; or [42.]

(c) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse or any animal used in the public service; or [47 (a).]

(d) dishonestly or fraudulently removes, conceals or delivers to any person, or designedly or through neglect injures or loses, his arms, clothes, tools, musical or surgical instruments, equipments, ammunition, accoutrements or regimental necessaries, or any such articles entrusted to him or belonging to any other person; or [47 (b).]

(e) sells, pawns, destroys or defaces any medal or decoration granted to him; [47 (c).]

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to False Documents and State-ments.

37. Any person subject to this Act who commits any of the following offences, that is to day,—

(a) makes a false accusation against any person subject to military, knowing such accusation to be false; or [A.A. s. 27 (1).]

(b) in making any complaint under section 117, knowingly makes any false statement affecting the character of any person subject to military law, or knowingly and wilfully suppresses any material fact; or [167.]

(c) obtains or attempts to obtain for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement; or [62.]

*The Indian Army Bill.**(Chapter V.—Offences.)*

- [63.] (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to Government or to any person in or attached to the army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

- [5(2).] 38. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before whom he appears for the purpose of being enrolled, shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Offences in relation to Courts-martial.

39. Any person subject to this Act who commits any of the following offences, that is to say,—

- [67.] (a) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend, or refuses to be sworn or to answer any question, or to produce or deliver up any book or document which he may have been duly warned and called upon to produce or deliver up ; or
- [68.] (b) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting ; or
- [56.] (c) having been duly sworn before any court-martial or other military court competent to administer an oath, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Miscellaneous Military Offences.

40. Any person subject to this Act who commits any of the following offences, that is to say,—

- [25.] (a) being an officer or warrant officer, behaves in a manner unbecoming his position and character ; or
- [40.] (b) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position ; or

- (c) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority ; or

- (d) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person ; or

- (e) attempts to commit suicide and does any act towards the commission of such offence ; or

- (f) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonments, or in or about, or when going to or returning from, any town or bazar, carrying a sword, bludgeon or other offensive weapon ; or

- (g) directly or indirectly, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service ; or

- (h) neglects to obey any garrison or other orders ; or

- (i) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and military discipline ;

shall, on conviction by court-martial, be punished with imprisonment, or with such less punishment as is in this Act mentioned.

Abetment.

41. Every person subject to this Act who abets any offence punishable under this Act may be punished with the punishment provided in this Act for such offence.

Civil Offences.

42. Every person subject to this Act, who at any place beyond British India, or when on active service in British India, commits any civil offence shall be deemed to be guilty of an offence against military law, and, if charged therewith under this section, shall, subject to the provisions of this Act, be liable to be tried for the same by court-martial at any place, whether within or beyond British India, and on conviction to be punished as follows, that is to say :—

- (a) if the offence is one which would be punishable under the law of British India with death or with transportation, he shall be liable to suffer any punishment assigned for the offence by the law of British India ; and

*The Indian Army Bill.**(Chapter V.—Offences. Chapter VI.—Punishments.)*

(b) in other cases, he shall be liable to suffer any punishment assigned for the offence by the law of British India, or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and military discipline.

(iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

[178.] 43. Every person subject to this Act who, whether within or beyond British India, commits or attempts to commit or abets the commission of an offence punishable under Chapter VI of the Indian Penal Code, or any of the following offences against any person subject to military law, that is to say, murder, culpable homicide or any offence punishable under any of the sections 323 to 335 (both inclusive), or section 506 of the said Code, shall be deemed to be guilty of an offence against military law, and, if charged under this section with any such offence, shall, subject to the provisions of this Act, be liable to be tried by court-martial at any place, whether within or without British India, and on conviction shall be liable to suffer any punishment assigned for the offence by the said Code.

CHAPTER VI.

PUNISHMENTS.

[Draft 78.] 44. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by court-martial, according to the scale following, that is to say :—

- (a) death ;
- (b) transportation for life or for any period not less than seven years ;
- (c) imprisonment (with or without solitary confinement) for any term not exceeding fourteen years ;
- (d) dismissal from the service ;
- (e) in the case of officers and warrant officers, suspension from rank, pay and allowances for any stated period ;
- (f) reduction, in the case of a warrant officer, to a lower grade or class in his department, or, in the case of a non-commissioned officer, to a lower grade or to the ranks ;
- (g) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank ;
- (h) forfeitures and stoppages as follows namely :
 - (i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose ;
 - (ii) forfeiture of any military decoration or military reward ;
 - (iii) forfeiture, in the case of a person sentenced to dismissal from the service, or whose sentence involves such dismissal, of all arrears of pay and allowances and other public money due to him at the time of such dismissal ;

45. Where in respect of any offence under this Act there is specified a particular punishment or such less punishment as is in this Act mentioned, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Act as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment. [Draft 78, prov. 1.]

46. Where any person subject to this Act and under the rank of warrant officer— [Draft 78, prov. 5.]

- (a) on active service is guilty of any offence ; or
- (b) at any time is guilty of the offence specified in clause (d) of section 32 ; or
- (c) at any time is guilty of a civil offence which would be punishable with whipping under the law of British India, and is triable by court-martial under this Act,

it shall be lawful for a court-martial to award for that offence corporal punishment not exceeding fifty lashes.

47. Corporal punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal. [Draft 78, prov. 1.]

48. A sentence of a court-martial may award, in addition to or without any one other punishment, any one or more of the punishments specified in clauses (d), (f) and (h) of section 44. [Draft 78, prov. 2.]

49. Whenever any person is sentenced to rigorous imprisonment, the court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say— [Act XLV, 1860, s. 73.]

- (a) a time not exceeding one month if the term of imprisonment does not exceed six months ;
- (b) a time not exceeding two months if the term of imprisonment exceeds six months and does not exceed one year ;
- (c) a time not exceeding three months if the term of imprisonment exceeds one year.

50. A non-commissioned officer sentenced by court-martial to transportation, imprisonment, corporal punishment or dismissal from the service, shall be deemed to be reduced to the ranks. [Cf. 134.]

*The Indian Army Bill.**(Chapter VII.—Penal Deductions. Chapter VIII.—Courts-martial.)*

CHAPTER VII.

PENAL DEDUCTIONS.

51. The following penal deductions may be made from the pay and allowances of a person subject to this Act, that is to say,—

[New Cf. A. A. 138.]

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment awarded by a criminal court, a court-martial, or an officer exercising authority under section 21;
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment by an officer exercising authority under section 21;
- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the proper medical officer attending on him at the hospital to have been caused by an offence under this Act committed by him;
- (d) all pay and allowances ordered by a court-martial to be suspended or forfeited under section 44;
- (e) any sum ordered by a court-martial to be stopped under section 44;
- (f) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, regimental necessities or military decoration, or to any buildings or property, as may be awarded by his commanding officer;
- (g) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 42 or section 43, or an officer exercising authority under section 21 or section 22:

Provided that the total deductions from the pay and allowances of a person subject to this Act made under clauses (e) to (g), both inclusive, shall not (except in the case of a person sentenced to dismissal or whose sentence involves dismissal), exceed in any one month one-half of his pay and allowances for that month.

[A. A. 140
(2); A. R. I.,
Vol. I., 948.]

Explanation.—For the purposes of clauses (a) and (b)—

- (i) absence or custody for six consecutive hours or upwards, whether wholly in one day or partly in one day and partly in another, may be reckoned as absence or custody for a day;
- (ii) absence or custody for twelve consecutive hours or upwards may be reckoned as absence or custody for the whole of each day during any portion of which the person was absent or in custody; and

- (iii) any absence or custody for less than a day may be reckoned as absence or custody for a day if such absence or custody prevented the absentee from fulfilling any military duty which was thereby thrown upon some other person.

52. Any sum authorized by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

[A. A. 140.]

53. Any deduction from pay and allowances authorized by this Act may be remitted in such manner and by such authority as may from time to time be prescribed.

[A. A. 139.]

CHAPTER VIII.

COURTS-MARTIAL.

Constitution and Dissolution of Courts-martial.

54. For the purposes of this Act there shall be four kinds of courts-martial, that is to say:—

[Draft 72.]

- (1) general courts-martial;
- (2) district courts-martial;
- (3) summary general courts-martial; and
- (4) summary courts-martial.

55. A general court-martial may be convened by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

56. A district court-martial may be convened by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

57. A warrant issued under section 55 or section 56 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

58. A general court-martial shall consist of not less than seven officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than five officers.

[74.]

59. A district court-martial shall consist of not less than five officers, unless that number, due regard being had to the public service, is not available, in which case the court may consist of not less than three officers.

[80.]

60. Whenever a general or district court-martial is ordered to be composed of the smaller number of officers specified in section 58 or section 59, the order convening the court shall state that the larger number of officers is not, due regard being had to the public service, available, and such statement shall be conclusive evidence of the fact so stated.

[82 A.]

*The Indian Army Bill.**(Chapter VIII.—Courts-martial.)*

[Dra. 95.]

61. The officers composing a general or district court-martial shall, at the discretion of the convening officer, but subject to the provisions of section 62, either be British or Native officers, but shall not be partly British and partly Native officers.

[86 (3) (4).]

62. (1) Any person subject to this Act who is claim to trial by under orders for trial by British officers. general or district court-martial may claim to be tried by British officers.

(2) In all cases the right of making such a claim shall, before the court is convened, be explained to the person under orders for trial by the commanding officer, or some officer deputed by him in this behalf, and, when such a claim is made, the court shall be constituted accordingly.

[90.]

63. The following authorities shall have power to convene a summary general court-martial, namely:—

- (a) an officer empowered in this behalf by an order of the Governor General in Council or of the Commander-in-Chief in India;
- (b) on active service, the officer commanding the forces in the field, or any officer empowered by him in this behalf;
- (c) an officer commanding any detached portion of His Majesty's troops upon active service when, in his opinion, it is not practicable, with due regard to discipline and the exigencies of the service, that an offence should be tried by an ordinary general court-martial.

[91.]

64. A summary general court-martial shall consist of not less than three officers.

[93.]

Summary courts-martial.

65. (1) A summary court-martial may be held—

- (a) by the commanding officer, being a combatant officer, of any corps or department of His Majesty's Indian forces, or of any detachment of those forces;
- (b) by the commanding officer, being a combatant officer, of any British corps or detachment to which details subject to this Act are attached.

(2) At every summary court-martial the officer holding the trial shall alone constitute the court, but the proceedings shall be attended throughout by two other officers who shall not, as such, be sworn.

[103.]

66. (1) When a court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be deemed to be dissolved.

(2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved.

(3) Where a court-martial is dissolved under this section, the accused may be tried again.

Jurisdiction of Courts-martial.

67. When any person subject to this Act has been acquitted or convicted of an offence by a court-martial or by a criminal court, or has been summarily dealt with for an offence under section 21 or section 23, he shall not be liable to be tried again for the same offence by a court-martial or dealt with summarily in respect of it under either of the said sections.

[180.]

68. No person subject to this Act shall be tried or punished by a court-martial for any offence after the expiration of three years from the date of such offence, unless the offender, by reason of absence or of some other manifest impediment, could not be arrested or confined and brought to trial within that period; in which case he shall be liable to be tried at any time not exceeding two years after such impediment has ceased.

[98.]

69. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

[99.]

Adjustment of the jurisdiction of Courts-martial and Criminal Courts.

70. When a criminal court and a court-martial have each jurisdiction in respect of an offence, it shall be in the discretion of the prescribed military authority to decide before which court the proceedings shall be instituted, and, if that authority decides that they shall be instituted before a court-martial, to direct that the accused person shall be detained in military custody.

[174.]

71. (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any alleged offence, it may, by written notice, require the prescribed military authority at its option either to deliver over the offender to the nearest magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the Governor General in Council.

[175.]

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the Governor General in Council, whose order upon such reference shall be final.

72. (1) Notwithstanding anything contained in section 25 of the General Clauses Act, 1897, or in section 403 of the Code of Criminal Procedure, 1898, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal court for the same offence or on the same facts.

[New. C.A. A., s. 182.]
X of 1897.
V of 1898.

(2) If a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a criminal court for the same offence or on the same facts, that court shall, in awarding punishment, have regard to the military punishment he may already have undergone.

*The Indian Army Bill.**(Chapter VIII.—Courts-martial.)**Powers of courts-martial.*

[Draft 91.] 73. A general or summary general court-martial shall have power to try all persons subject to this Act for any offence made punishable therein, and to pass any sentence authorized by this Act.

[Draft 91.] 74. A district court-martial shall have power to try all persons subject to this Act other than officers for any offence made punishable therein, and to pass any sentence authorized by this Act other than a sentence of death, or transportation, or imprisonment for a term exceeding two years.

[94.] 75. A summary court-martial may try any offence punishable under any of the provisions of this Act:

Provided that when there is no grave reason for immediate action, and reference can without detriment to discipline be made to the officer empowered to convene a district court-martial for the trial of the alleged offender, an officer holding a summary court-martial shall not try without such reference any of the following offences, namely:—

(a) any offence punishable under sections 26, 28, clauses (a), (b) or (c), 34, 42 or 43, or

(b) any offence against the officer holding the court.

[93 (4).] 76. A summary court-martial may try any person subject to this Act and under the command of the officer holding the court, except an officer or warrant officer, and, if so authorized by the officer commanding the division, brigade or station to which the alleged offender belongs, may try any member of an army hospital corps or of an army bearer corps.

[95.] 77. (1) A summary court-martial held by the commanding officer of a corps or department may pass any sentence which can be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding one year.

(2) A summary court-martial held by any other officer may pass any sentence which can be passed under this Act, except a sentence of death or transportation, or of imprisonment for a term exceeding six months.

Procedure at trials by Court-martial.

[88.] 78. At every general, district or summary general court-martial the senior member shall sit as president.

[87.] 79. Every general court-martial shall, and every district court-martial may, be attended by a judge advocate who shall be either an officer belonging to the department of the Judge Advocate General in India, or, if no such officer is available, a person appointed by the convening officer.

80. A British officer of not less than four years' service, hereinafter called the superintending officer, shall be appointed to superintend the proceedings of every court-martial composed of Native officers which is not attended by a judge advocate. [87 (4).]

81. (1) At all trials by general, district or summary general courts-martial, as soon as the court is assembled, the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court. [107.]

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object. [A. A. 51 (5).]

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

82. (1) Every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused. [119.]

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

83. An oath in the prescribed form shall be administered to every member of every court-martial and to the judge advocate or superintending officer before the commencement of the trial. [109.]

84. Every person giving evidence at a court-martial shall be examined on oath, and shall be duly sworn in the prescribed form. [111.]

85. (1) The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing. [122.]

(2) In the case of a witness amenable to military authority, the summons shall be sent to the officer commanding the corps, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be or reside, and such magistrate shall give effect to the summons as if the witness were required in the court of such magistrate.

*The Indian Army Bill.**(Chapter VIII.—Courts-martial.)*

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with convenient certainty.

of 1872.] (5) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any district magistrate, chief presidency magistrate, high court or court of session, wanted for the purpose of any court-martial, such magistrate or court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate or court may direct.

(7) If any such document is, in the opinion of any other magistrate or of any commissioner of police or district superintendent of police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such district magistrate, chief presidency magistrate or court.

draft 118.] 86. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate General in order that a commission to take the evidence of such witness may be issued.

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any district magistrate or magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) When the witness resides in the territories of any prince or chief in India in which there is an officer representing the British Indian Government, the commission may be issued to such officer.

of 1898.] (4) The magistrate or officer to whom the commission is issued, or if he is the district magistrate, he or such magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure, 1898.

(5) Where the commission is issued to such officer as is mentioned in sub-section (3), he may delegate his powers and duties under the commission to any officer subordinate to him whose powers are not less than those of a magistrate of the first class in British India.

(6) When the witness resides out of India, the commission may be issued to any British consular officer, British magistrate or other British official competent to administer an oath in the place where such witness resides.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the magistrate or officer to whom the commission is issued shall examine the witness upon such interrogatories.

(8) The prosecutor and the accused person may appear before such magistrate or officer by pleader or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

(9) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate General.

(10) On receipt of a commission and deposition returned under sub-section (9), the Judge Advocate General shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(11) In every case in which a commission is issued under this section the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

Explanation.—In this section, the expression "Judge Advocate General" means the Judge Advocate General in India, and includes a Deputy Judge Advocate General.

87. (1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave. [116.]

(2) A person charged before a court-martial with attempting to desert may be found guilty of desertion or of being absent without leave.

(3) A person charged before a court-martial with any of the following offences specified in section 32, that is to say, theft, dishonest misappropriation or conversion to his own use of property entrusted to him, or dishonestly receiving or retaining property in respect of which any of the aforesaid offences has been committed knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, may be found guilty of any other of these offences with which he might have been charged.

(4) A person charged before a court-martial with any other offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

88. No sentence of death shall be passed by Majority requisite to any court-martial without the concurrence of two-thirds at the least of the members of the court. [119.]

*The Indian Army Bill.**(Chapter VIII.—Courts-martial.)**Evidence before Courts-martial.*

[1 of 1872.
[117A.] 89. The Indian Evidence Act, 1872, shall, General rule as to subject to the provisions of this Act, apply to all proceedings before a court-martial.

[New R. of
P. 55.] 90. A court-martial may take judicial notice of any matter within the general military knowledge of the members.

[187.] 91. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the civil or military service of the Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

[New. Cf.
A.A. s. 163
(1) (a).] 92. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given, and of the enrolment of such person.

[115.] 93. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any officer in the civil or military service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

[117.] 94. (1) When any person subject to this Act has been convicted by a court-martial of any offence, such court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial or by a criminal court, and may further inquire into and record the general character of such person, and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to prove the signature to such certified extracts, nor shall it be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a summary court-martial the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other

matters as may be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Confirmation and Revision of Findings and Sentences.

95. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Act.

96. The findings and sentences of general courts-martial may be confirmed by the Commander-in-Chief in India, or by any officer empowered in this behalf by warrant of the Commander-in-Chief in India.

97. The findings and sentences of district courts-martial may be confirmed by any officer having power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such officer.

98. A warrant issued under section 96 or section 97 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

99. (1) The finding and sentence of a summary general court-martial shall require to be confirmed by the convening officer—

- (a) in the case of the trial of an officer,
- (b) in the case of an acquittal or a sentence of death or transportation or imprisonment for a term exceeding two years, and
- (c) in any other case if so ordered by the said officer.

(2) Save as provided in sub-section (1), a sentence passed by a summary general court-martial shall not require to be confirmed, but may be carried out forthwith.

100. Subject to such restrictions as may be contained in any warrant issued under section 96 or section 97, a confirming officer may, when confirming the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any less punishment or punishments to which the offender might have been sentenced by the court-martial:

Provided that a sentence of transportation shall not be commuted for a sentence of imprisonment for a term exceeding the term of transportation awarded by the court.

101. (1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming officer; and on such revision, the court, if so directed by him, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of these officers are unavoidably absent.

*The Indian Army Bill.**(Chapter VIII.—Courts-martial. Chapter IX.—Execution of Sentences.
Chapter X.—Pardons and Remissions.)*

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that it still consists of the smallest number of officers of which such court is by this Act required to consist.

[96.] 102. The finding and sentence of a summary court-martial shall not require to be confirmed, but may be carried out forthwith:

Provided that, if the officer holding the trial is of less than five years' service, he shall not, except on active service, carry into effect any sentence until it has received the approval of an officer commanding not less than a corps.

[97.] 103. The proceedings of every summary court-martial shall without delay be forwarded to the officer commanding the division or brigade within which the trial was held, or to the prescribed officer; and such officer, or the Commander-in-Chief in India, or the officer commanding the army in which the trial was held, may, for reasons based on the merits of the case, but not on any merely technical grounds, set aside the proceedings.

C. A. P. 54 104. Where a sentence passed by a court-martial which has been confirmed, or which does not require confirmation, is found for any reason to be invalid, the authority who would have had power under section 112 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence:

Provided that the punishment awarded by the sentence so passed shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by the invalid sentence.

CHAPTER IX.

EXECUTION OF SENTENCES.

[41.] 105. In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

[51.] 106. Whenever any person is sentenced under this Act to simple imprisonment, such sentence shall be carried out by confinement in military custody.

[51: Act 898, s.] 107. Whenever any sentence of transportation or rigorous imprisonment is passed under this Act, or whenever any sentence so passed is commuted to transportation or to rigorous imprisonment, the commanding officer of the person under sentence, or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer in charge of the civil prison in which such person is to be confined, and shall forward him to such prison with the warrant:

Provided that, in the case of a sentence of rigorous imprisonment for a period not exceeding three months, the confirming officer, or, in the case of a sentence which does not require

confirmation, the court, may direct that the sentence shall be carried out by confinement in military custody.

108. Whenever, in the opinion of an officer commanding an army, division or independent brigade, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of section 106 or section 107, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place. [New.]

109. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer in charge of the prison in which such person is confined. [New.]

110. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and, when the imprisonment awarded exceeds three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods. [133.]

111. Whenever any person is sentenced under this Act by a court-martial to corporal punishment, such punishment shall be inflicted on the bare back with the regulation cat. [New.]

CHAPTER X.

PARDONS AND REMISSIONS.

112. When any person subject to this Act has been convicted by a court-martial of any offence,— [160.]

- (a) the Governor General in Council, or,
(b) when the person has been convicted of any offence other than a civil offence, the Commander-in-Chief in India or, in the case of a sentence which he could have confirmed or which did not require confirmation, the officer commanding the army, division or independent brigade in which such person, at the time of his conviction, was serving,

may—

- (1) pardon the person;
- (2) mitigate or remit the punishment awarded, or commute such punishment for any less punishment or punishments to which he might have been sentenced by the court-martial, or, if such punishment is death or transportation for life awarded under section 42 or section 43 for the offence of murder, then for such less punishment as is in this Act mentioned;

*The Indian Army Bill.**(Chapter X.—Pardons and Remissions. Chapter XI.—Rules.**Chapter XII.—Property of Deceased Persons, Deserters and Lunatics.**Chapter XIII.—Miscellaneous.)*

- (3) order the restoration to him of any service or other advantage forfeited under his sentence; or
- (4) re-admit him to the service when he has been dismissed therefrom.

CHAPTER XI.

RULES.

[190.] 113. (1) The Governor General in Council may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the amount and incidence of fines to be imposed under section 22;
- (b) the assembly and procedure of courts of inquiry, and the administration of oaths by such courts;
- (c) the convening and constituting of courts-martial;
- (d) the adjournment, dissolution and sittings of courts-martial;
- (e) the procedure to be observed in trial by courts-martial;
- (f) the confirmation and revision of the findings and sentences of courts-martial;
- (g) the carrying into effect sentences of courts-martial;
- (h) the forms of orders to be made under the provisions of this Act relating to courts-martial, transportation or imprisonment; and
- (i) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the Gazette of India, and, on such publication, shall have effect as if enacted in this Act.

CHAPTER XII.

PROPERTY OF DECEASED PERSONS, DESERTERS AND LUNATICS.

[176.] 114. The following rules are enacted respecting the disposal of the property of every person subject to this Act who dies or deserts:—

Property of deceased persons and deserters.

(1) The commanding officer shall secure all the moveable property that is on the spot, and cause an inventory thereof to be made, and draw any pay and allowances due to the deceased or deserter.

(2) In the case of a deceased person who has left in a Government savings bank (including any post office savings bank, however named) a deposit not exceeding one thousand rupees, the commanding officer may, if he thinks fit, require the secretary or other proper officer of the bank to pay the deposit to him forthwith notwithstanding anything in any departmental rules; and, after the payment thereof in accordance with such requisition, no person shall have any right in respect of the deposit except as hereinafter provided.

(3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the regimental debts (if any) of the deceased, the commanding officer shall deliver over the property and the amount of the deposit (if any) received under clause (2) to that representative.

(4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the property to be sold by public auction, and shall pay the regimental debts and other debts in camp or quarters (if any), and in the case of a deceased person the expenses of his funeral ceremonies, from the proceeds of the sale and the amount of the deposit (if any) received under clause (2).

(5) The surplus, if any, shall in the case of a deceased person be paid to his representative, if any, or in the event of no claim to such surplus being established within twelve months after the death, then the same shall be remitted to the prescribed person.

(6) In the case of the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be forthwith remitted to the prescribed person.

Explanation.—A person shall be deemed to be [179.]

a deserter within the meaning of this section who has been convicted of desertion, or who has without authority been absent from duty for a period of sixty days and has not subsequently surrendered or been apprehended.

115. Property deliverable and money payable [177.]

to the representative of a deceased person under section 114 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to those ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor, of a deceased person against any person to whom such delivery or payment has been made.

116. The provisions of section 114 shall, so far [179.]

as they can be made applicable, apply in the case of a person subject to this Act becoming insane.

CHAPTER XIII.

MISCELLANEOUS.

Military Privileges.

117. (1) Any person subject to this Act who [167.]

deems himself wronged by any superior or other officer, may, if not attached to a troop or company, complain to the officer under

*The Indian Army Bill.**(Chapter XIII.—Miscellaneous.)*

whose command or orders he is serving ; and may, if attached to a troop or company, complain to the officer commanding the same.

(2) When the officer complained against is the officer to whom any complaint should, under subsection (1), be preferred, the aggrieved person may complain to such officer's next superior officer.

(3) Every officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority.

(4) Every such complaint shall be preferred through such channels as may be from time to time specified by proper authority.

[124.] 118. (1) No president or member of a court-martial, no judge advocate or superintending officer, no party to any proceeding before a court-martial, or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial.

[181.] 119. (1) No person subject to this Act shall, so long as he belongs to His Majesty's Indian forces, be liable to be arrested for debt under any process issued by, or by the authority of, any civil or revenue court or revenue-officer.

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may, by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the court by the complainant.

[182.] 120. Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

[183.] 121. Every person belonging to the Indian Reserve Forces shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 119 and 120 to a person subject to this Act.

[184.] 122. (1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper military authority, of leave of absence having been granted to or applied for by him for the purpose of prosecut-

ing or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper military authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper military authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to the nearest officer commanding a corps, whose decision shall be final.

Deserters and Military Offenders.

123. (1) Whenever any person subject to this Act deserts, the commanding officer of the corps, department or detachment to which he belongs shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter ; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, to military custody.

(2) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

124. (1) Any person subject to this Act who is charged with an offence [New. Cf. A. A. s. 15.] may be taken into military custody.

(2) Any such person may be ordered into military custody by any superior officer.

(3) The charge against every person taken into military custody shall, without unnecessary delay, be investigated by the proper military authority, and, as soon as may be, either proceedings shall be taken for punishing the offence, or such person shall be discharged from custody.

125. Whenever any person subject to this Act, who is accused of any offence under this Act, is within the jurisdiction of any magistrate or police-officer, such magistrate

[185.]

[New. Cf. A. A. s. 15.]

[186.]

*The Indian Army Bill.**(Chapter XIII.—Miscellaneous. The Schedule.—Repeal of Enactments.)*

or officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect signed by his commanding officer.

[162.] 126. (1) When any person subject to this Inquiry on absence Act has been absent without due authority from his Act. duty for a period of sixty days, a court of inquiry shall, as soon as practicable, be assembled and, upon oath administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of the Government entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the corps or department to which the person belongs shall enter in the court-martial book of the corps or department a record of the declaration.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

(3) If the person declared absent surrenders or is apprehended, the record or a copy thereof, purporting to bear the signature of the officer having the custody of the court-martial book, shall, on the trial of the person for desertion, be presumptive evidence of the facts therein recorded.

Repeal.

127. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof:

Provided that all warrants issued and persons enrolled or attested under the provisions of any of the said enactments shall be deemed to have been respectively issued, enrolled or attested under this Act.

THE SCHEDULE.

REPEAL OF ENACTMENTS.

(See section 127.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1869	V	The Indian Articles of War.	The whole.
1875	V	The Unattested Sepoys Act, 1875.	Ditto.
1891	XII	The Repealing and Amending Act, 1891.	So much of section 2 sub-section (2), and the Second Schedule as relates to the Indian Articles of War.
1894	XII	The Indian Articles of War Amendment Act, 1894.	The whole.
1897	XIV	The Indian Short Titles Act, 1897.	So much of section 2 and the Schedule as relates to Act V of 1875.
1900	I	The Indian Articles of War Amendment Act, 1900.	The whole.
1901	IX	The Indian Articles of War Amendment Act, 1901.	Ditto.
1904	XIII	The Indian Articles of War Amendment Act, 1904.	Ditto.
1905	V	The Indian Articles of War Amendment Act, 1905.	Ditto.

STATEMENT OF OBJECTS AND REASONS.

THE law relating to the Indian Army—contained in the Indian Articles of War and various other enactments—has recently been found to require amendment in the following respects:—

- (a) Corporal punishment should only be awardable in time of peace for offences to which the ordinary criminal law assigns the same penalty, instead of, as at present, for almost every offence known to military law. The recent enactment of the Whipping Act, 1909, makes it especially desirable to amend the law in this respect.
- (b) The law relating to enrolment and attestation contained in the Indian Articles of War is unsatisfactory and is often misunderstood. It requires amendment and simplification.
- (c) The contingency of units of the Indian Army serving outside of India in time of peace and under officers not subordinate to the Governor General in Council was not contemplated when the present Articles of War were framed, and the administration and discipline of such units is not therefore adequately provided for in these Articles.
- (d) The recent abolition of the "commands" and the reorganisation of the army in divisions and independent brigades have rendered various provisions of the existing law obsolete and have necessitated changes in others.

2. It has long been felt that the Indian Articles of War, in spite of the amendments which have been made in them since they were originally enacted as Act V of 1869, are unsuited to modern requirements and need to be entirely re-cast. These Articles are obscure and often defective, while their arrangement is confusing and practical difficulties in their working are of frequent occurrence. The opportunity has therefore been taken to prepare an entirely new Code instead of merely amending the existing Articles on the special points indicated.

3. An additional reason for adopting this course is that it will result in the substitution of one simple and comprehensive enactment for the seven in which the law relating to the Indian Army is at present contained, instead of adding an eighth to their number.

4. Various matters which properly belong to rules of procedure, and which only found a place in the existing Articles owing to no rules of procedure under Indian military law being in existence prior to 1899, have been omitted and will be provided for in rules to be issued under this Bill when it becomes law. The general principle adopted has been to provide in the Bill for essential matters of procedure only, leaving non-essentials to be dealt with in rules.

5. Forfeiture and attachment of property, at present awardable under Indian Articles of War, 24 and 76, have been omitted as being unsuitable penalties for purely military offences. When soldiers are tried by court-martial for civil offences to which these penalties are attached, they will continue to be awardable under clauses 42 and 43 of the Bill. This is all that is necessary in this connection.

6. Certain other changes, generally of a verbal character, and intended to make the law, as at present interpreted, clear to persons not having a legal training, have been made. The arrangement of the Army Act (44 & 45 Vict., c. 58) has, whenever possible, been adhered to, as it is believed that this will facilitate reference and be a convenience to officers who have to administer both systems of law. The reasons for other changes and omissions will appear from the following detailed explanation of the Bill.

CHAPTER I.

7. *Clauses 2 to 5* substantially reproduce the existing law on the subjects dealt with. As all "medical subordinates" are now either officers or warrant officers, and as all attested persons are previously enrolled, the list of persons, subject to the Act, has been reduced by the omission of these two classes. "Unattested recruits" have also been omitted as the subjection of a person to a severe and exceptional code without a definite act on his part, indicating his consent and capable of easy proof, appears undesirable. In practice recruits are never tried by court-martial prior to enrolment, and such trials, if at all common, would soon check recruiting.

8. *Clause 6* is new and is necessitated by the service of Indian troops in colonies and dependencies under the Imperial Government and outside the normal formations of the Indian Army. The powers conferred by the Bill on the commanders of armies, divisions and brigades are in the first instance restricted to the officers holding these commands in India or subject to the Indian authorities [clause 7, definition (8)], and power is here taken to prescribe the officers who shall exercise these powers as regards Indian troops serving abroad, and also the limitations (if any) to be placed upon such exercise. Cases can then be provided for as they arise and in accordance with local circumstances without the necessity for passing a series of small amending Acts such as Acts IX of 1901 and XIII of 1904.

9. *Clause 7* reproduces, with some verbal alterations, the definitions in the existing Articles of War. The definition of "soldier"—the interpretation of which has given a good deal of trouble in the past, and which was only useful as restricting *full* non-commissioned rank to combatants—has been omitted, and a definition of "non-commissioned officer" inserted. In this definition the rank of non-commissioned officer is (in accordance with the existing law and practice) limited to combatants. It will still be open to Government to cause non-combatants holding positions of authority to be "deemed to be non-commissioned officers" by notification under clause 3 of the Bill, such notification limiting their authority to whatever extent is thought necessary. A few words have been added to the definition of "superior officer" to cover the case of persons subject to these Articles who are (as in the Supply and Transport Corps) placed under the orders of British warrant and non-commissioned officers serving under the Army Act.

CHAPTER II.

10. This chapter deals with the enrolment of persons under this Act and, in certain cases, their subsequent attestation. The present law on this subject is unsatisfactory and often misunderstood. It is hoped that the provisions of this chapter will put it upon a more satisfactory basis. Under the Articles of War, enrolment consists simply in the entry of a person's name, with his consent, on the roll of a corps or department. It involves no liability for general service (*i.e.*, no obligation to go wherever he may be ordered by land or by sea), which liability, attestation (the taking of the oath of military fidelity) carries with it. All attested persons

are first enrolled, attestation following either at once or after a period of probation. Attestation was originally intended for the more strictly combatant branches of the service, while enrolment—introduced in 1894—was designed to bring under military discipline certain classes who, though not strictly speaking soldiers, it was thought proper to subject to that discipline. (Objects and Reasons, Indian Articles of War Amendment Bill, 1894, paragraphs 1 and 3). Owing to enrolment not rendering the enrolled person liable to general service, a practice set in of attesting all classes—even menials—whom it was intended to take on active service. This has tended to unduly lower the estimation in which the ceremony of attestation is held, and is also undesirable on other grounds. Another difficulty which has arisen under the present law is that, as attestation does not take place until after a period of probation, instances have occurred of soldiers who, having drawn pay as an enrolled recruit for perhaps a year, have then refused to accept the additional liabilities implied by attestation. As they were within their legal rights, nothing could be done and they had to be discharged.

11. It is in every way desirable that all the conditions of a man's service should be understood by him and definitely accepted before he enters upon that service. This is provided for by *clauses 8 and 9* of the Bill, which make enrolment a definite act recorded in a formal document (as attestation now is), which document will constitute the agreement between the enrolled person and the State and will, as such, set forth all the conditions of his service. Enrolment will, as a rule, be for general service, but exceptional cases can be provided for as thought necessary.

12. Attestation (*clauses 11 and 12*) will impose no new liabilities, but will only confer status and privileges. It is retained for combatants and such selected classes of non-combatants as are considered deserving of being treated on the footing of combatants. It is intended that, as now, it shall be carried out with some ceremony, and its restriction to the higher classes of enrolled persons should enhance its significance. No separate attestation document will be required, the fact of attestation being recorded upon the enrolment document when it takes place.

CHAPTER III.

13. *Clauses 13 and 14* correspond to articles 3 and 4 of the existing law. The changes necessitated by the reorganisation of the Army have been made and "any prescribed officer" added to the dismissing and discharging authorities under clause 14. This will admit of any special cases which may arise being provided for without the necessity for legislation. The power to dismiss or discharge a Native officer has been restricted to the Governor General in Council and the Commander-in-Chief. Native officers receive their commissions from the Governor General in Council, and it appears right that only the highest authorities should have power to summarily deprive them of these commissions. All references to forfeiture of claim to pension have been omitted, as such matters are properly dealt with by regulations and not by statutory provisions.

14. *Clauses 15 and 16* deal with the powers of dismissal and discharge vested in commanding officers. *Clause 15* corresponds to article 155 and provides for the dismissal of persons who receive a substantial sentence of imprisonment either from a Civil or Military Court. *Sub-clause (a)* of *clause 16* corresponds to article 5 (1) and provides a summary means of getting rid of a person who has improperly re-enlisted. *Sub-clause (b)* will allow of a commanding officer, as at present, discharging an unsatisfactory recruit at any time up to his attestation. It will also admit of his getting rid of regimental menials, whose retention in the service he thinks undesirable, without the intervention of the brigade commander which is necessary under the present law. *Sub-clause (c)* is in accordance with existing custom, and is the most convenient manner of carrying out the class of discharges indicated.

15. *Clause 17* confers on the commanding officers of all mounted corps the power of discharging bad riders which is now vested in the commanding officers of cavalry corps only. The absence of this power has caused inconvenience, as there are now a number of mounted men subject to Indian military law in the Horse and Field Artillery and in ammunition columns.

16. *Clause 19* is new and has been inserted to safeguard the interests of the soldier who, when serving abroad, becomes entitled to be discharged or is dismissed from the service. It is based on the corresponding provisions of the Army Act (*cf.* Army Act, section 90).

CHAPTER IV.

17. *Clause 20* reproduces the provisions of article 164 with the necessary changes consequent upon the reorganization of the Army. "Any prescribed officer" has been added to the authorities empowered to reduce a non-commissioned officer in order that any exceptional cases may be provided for without the necessity for legislation.

18. *Clause 22* is new. It will permit of collective responsibility for losses of arms being legally enforced. Experience has shown that such responsibility is the best safeguard for the security of the arms of a company, and this is especially true in "class company" regiments, *i.e.*, in the majority of the regiments of the Indian Army.

19. *Clause 23* provides for the discipline of followers in camp and at frontier posts. It is similar to the corresponding provision of the Articles of War with the exception that corporal punishment cannot be awarded under it except on active service. This is in accordance with modern views on the subject. The operation of the clause has been definitely restricted to casual followers; it has been, in practice, so restricted for some time past.

20. *Clauses 24 and 25* deal with the duties and powers of provost-marshals. They reproduce the existing law with the exception of a similar restriction upon the infliction of corporal punishment.

CHAPTER V.

21. In this chapter the offences made triable by court-martial and specified in articles 7 to 71 and 171 to 173 of the Indian Articles of War have been grouped in accordance with the system observed in the Army Act. With the exceptions noticed below and a few verbal changes, the above-mentioned articles have been exactly re-produced.

22. Seditious offences have been accurately defined by a reference to Chapter VI of the Indian Penal Code and transferred from the Article dealing with the military offence of mutiny to clause 43.

23. Following the corresponding provision of the Army Act, "intoxication" is, in *clause 33*, made punishable whether committed on or off duty. This offence, even when committed off duty, is certainly often deserving of notice, more especially when the offenders are officers or non-commissioned officers, and the expedient of charging it under article 25 or 70 (as is now done) is unsatisfactory. The expression "intoxication" has been preferred to "drunkenness"—the Army Act term—as more certainly covering intoxication from the use of drugs.

24. *Clause 35 (b)* provides for a case which was, apparently through an oversight, not considered when the present Articles were framed. The Army Act contains a similar provision.

25. *Sub-clauses (a) and (b) of clause 37* assimilate the law as to false accusations and complaints to that in force in the British Army, and replace the penal portion of article 167. There seems to be no reason why the Native soldier should be punishable for making a complaint which is found to be merely frivolous or groundless while his European comrade can only be similarly dealt with under the graver circumstances set forth in section 27 of the Army Act. The provisions of the latter section have therefore been transferred to the present Bill.

26. *Clause 40* corresponds to articles 171 and 172, but the law is simplified by making civil offences committed by persons subject to the Act *when on active service* in British India triable by court-martial at all times instead of only after notification.

27. The maximum penalties provided in this chapter are, with three exceptions, identical with those awardable under the Indian Articles of War. Two offences at present punishable with death have been removed to the category of offences punishable with imprisonment only [*clauses 27 (c) and 31 (c)*]. The exceptional punishments awardable under article 57 for certain offences have been omitted, and these offences made punishable with imprisonment or such less punishment as is in this Act mentioned. An unnecessary complication in the law, and one moreover which made various grave offences less severely punishable than others not nearly so grave, will thus be removed.

CHAPTER VI.

28. *Clause 44* specifies, in order of severity, all the punishments ordinarily awardable by courts-martial, and, except as to corporal punishment which is dealt with separately, substantially reproduces the present law in a way which can be easily understood. In the Articles of War the powers of punishment are scattered here and there through the Act and courts have the greatest difficulty in knowing what they can or cannot award. In the Army Act each crime or group of crimes has a *maximum* penalty attached to it, and a subsequent section gives a list of all penalties in order of severity. A court can for an offence award the maximum penalty attached to it or any one lower in the scale provided that such penalty is within its own powers, which are duly specified in another part of the Act. This system has been adopted in the present Bill, both because of its inherent merits and because it is that with which all officers are familiar in connection with trials under the Army Act. The word "imprisonment" is used in this clause and throughout the Bill, instead of "imprisonment with or without hard labour", while "rigorous imprisonment" similarly replaces "imprisonment with hard labour". This brings the nomenclature adopted into accord with that used in the Indian Penal Code, and, though a departure from the Army Act, will be convenient as the sentences passed under the Bill, when it becomes law, will generally be carried out in civil prisons.

29. *Clause 46* allows of the infliction of corporal punishment upon persons under the rank of warrant officer, but only in exceptional cases, *i.e.*, on active service and for crimes which are similarly punishable in civil life. The latter crimes are the military

offence of "theft from a comrade" and the few civil offences which are now punishable by whipping under the ordinary criminal law of India, where such offences are triable by court-martial. Corporal punishment is at present awardable for all offences committed by persons under the rank of warrant officer, but is rarely inflicted, and the Government of India consider its retention, except in the cases mentioned above, to be unnecessary and inexpedient. No exception can be taken to its being retained for offences similarly dealt with under the ordinary criminal law of the land, which are now few in number and well deserving of such punishment. On active service the necessity for prompt and adequate punishment of offences is obvious and imperative. Short sentences of imprisonment are, under active service conditions, practically no punishment at all, while long sentences of transportation or imprisonment involve the return of the offender to India and the loss of his services when perhaps they are most required. By awarding sentences of corporal punishment in such cases, courts-martial can vindicate discipline, while the man is back at his duty in a few hours.

30. *Clause 48* provides for the combination of certain punishments. It is in accordance with the existing law, and will admit, for example, of a non-commissioned officer sentenced to imprisonment being also reduced and dismissed, or of a person whose crime has caused loss or damage to Government or others being placed under stoppages to make good the loss or damage caused in addition to undergoing the imprisonment or other punishment awarded for the crime he has committed.

31. *Clause 49* is new and embodies the provisions of the Indian Penal Code (Act XLV of 1860) regarding sentences of solitary confinement. It imposes a limit on the extent of such sentences which, if necessary under the ordinary law, is equally necessary under this Act, as these sentences are generally carried out in civil prisons.

32. No clause corresponding to article 140 of the Indian Articles of War, under which sentences of transportation or imprisonment passed upon persons already undergoing such sentences may be postponed, has been included in the Bill. Persons sentenced to transportation or to rigorous imprisonment for a term exceeding three months *ipso facto* cease to belong to the Army and to be amenable to the jurisdiction of courts-martial. The only case therefore in which a person already under sentence could incur a second sentence of transportation or imprisonment is that of a man undergoing a short sentence of imprisonment in military custody who again committed himself. When such cases have occurred and the court has ordered the second sentence to commence on the expiry of the first, difficulties have arisen regarding the continued infliction of the first term of imprisonment (that in military custody) when, as is almost invariably the case, the second sentence has automatically effected the discharge of the offender. It has therefore been thought better to make no provision for the postponement of such second sentences, which will therefore take effect from the day on which they are signed and absorb the unexpired portion of the former sentences. This is the practice as regards sentences under the Army Act, which is another reason for its adoption in the present Bill. The unexpired portion of the earlier sentence can only be a matter of a few weeks, or even days, and the court passing the second sentence can allow for it when estimating the term to be awarded by it.

CHAPTER VII.

33. The provisions of the existing law as to penal deductions from the pay of persons subject to Indian military law being inadequate, the opportunity has been taken to provide fully for such deductions in the present Bill.

Clause 51 follows, *mutatis mutandis*, the corresponding section (138) of the Army Act and will legalize all such penal deductions as are now made under regulations. It also includes the few exceptional cases in which such deductions are now provided for in the Indian Articles of War. As in the corresponding section of the Army Act, a wide range of deductions which may be made is indicated. The exact deductions which, within these limits, shall be enforced are in both cases left to regulations. The proviso is based upon the existing limitation as to the extent to which court-martial stoppages can be enforced (Indian Articles of War, 139). One-half of a person's pay and allowances is considered to be the sum necessary to enable him to support himself and to efficiently perform his military duties. There appears to be no reason why stoppages to make good an injury should cease at the end of a year if the injured party is not yet fully compensated, and this provision of article 139 has accordingly been omitted. The definition of a day contained in the explanation to this clause is in accordance with existing regulations and practice.

34. *Clause 52* is based upon section 140 (1) of the Army Act and will allow of such amounts being recovered from any public money which may become due to the person, for instance, from a gratuity or from prize-money to which he may become entitled.

CHAPTER VIII.

35. This chapter substantially reproduces the present law as to courts-martial (except regimental courts-martial), the clauses dealing with each branch of the subject having been collected together for convenient reference. Regimental courts-martial are now so rare in the

Indian Army that there appears to be no necessity for their continuance. The summary court-martial takes their place, as regards the trial of all ordinary cases, and the only class of such cases for which that court is unsuitable—offences against the commanding officer personally—can be appropriately dealt with by general or district court-martial. Regimental courts-martial have therefore been omitted from the list of tribunals provided for in the Bill. The provisions as to court-martial warrants have been assimilated to those of the Army Act, as in force in India. This will be an administrative convenience.

36. *Clause 61* apparently introduces a change in the law as the power to order courts to consist of British or Native officers is at present only exercised by officers empowered to do so by warrant. In practice, however, this power is invariably conferred by warrant on officers authorized to convene general and district courts-martial. It has been thought better to recognize this, and to confer the power on all convening officers by virtue of their position as such.

37. In *clause 63* the power to authorise an officer to convene a summary general court-martial in time of peace has been restricted to the Governor General in Council and the Commander-in-Chief, as it is considered that such an exceptional power should only be exercised by the highest authorities.

38. In *clause 65 (1) (b)* the power to hold summary courts-martial is extended to officers commanding British corps to which any details subject to Indian military law are attached. The present restriction of this power to officers commanding such units as have combatant details attached to them has caused inconvenience. Many British corps have Indian non-combatant details attached to them, as syces, transport drivers, etc., for whose discipline provision must be made.

39. *Clause 72* brings the law into accordance with the Army Act by providing that trial by court-martial shall be no bar to a subsequent trial by a criminal court on the same facts, but requires the latter court, if it awards a sentence, to take into account the punishment already inflicted by the military court.

40. *Clause 75* corresponds to article 94 of the Indian Articles of War, but the category of offences triable by summary court-martial without reference to superior authority has been considerably enlarged. This will expedite the disposal of a large class of cases (desertion, petty assaults, and ordinary theft) the reference of which to superior authority was only a formality, but one which caused unnecessary delay in the administration of military justice. The "superior authority" to whom reference should be made is now definitely indicated, as the vague terms of article 94 have caused inconvenience.

41. Various matters of procedure have, for the reasons indicated in paragraph 4 above been relegated to rules. Among these are the forms of oath and affirmation to be administered, under clauses 83 and 84, to members and officials of courts-martial and to witnesses giving evidence before such courts. The appointment of interpreters is also (as in the Army Act) left to be provided for, when necessary, by such rules.

42. *Clause 85* is in accordance with the existing law, but certain permanent authorities have been added to the list of those empowered to summon witnesses, which now corresponds to the list of persons empowered to do so as regards courts under the Army Act. The omission of such permanent authorities from the present article has frequently caused inconvenience.

43. *Clause 86* is new but confers on courts-martial a power now exercised by criminal courts in India. It is not expected, or intended, that this power shall be frequently exercised, but its non-existence has caused inconvenience and unnecessary expense both to the State and to persons under trial. The restriction of the power to issue commissions to the Judge Advocate General in India and his Deputies will ensure its not being abused.

44. *Clause 92* is based on section 163 of the Army Act and will facilitate proof of a person's enrolment and the answers then given by him.

45. *Clause 101* restricts revision to those courts which require confirmation. This is in accordance with the law as at present understood, but the words of article 120 are open to misconstruction and have therefore not been reproduced. As all sentences which do not require confirmation are carried out forthwith, re-assembly for revision of sentence, even if possible, does not seem desirable, and would, in the case of a summary court-martial, tend to weaken the authority of the commanding officer.

46. *Clause 104* is new and allows the authority empowered to commute the sentence of a court-martial to substitute a valid sentence for an invalid one. This is in accordance with the practice as to sentences under the Army Act [see Rule of Procedure, 54 (c)]. At present no authority can exercise this power as regards sentences under Indian military law, and the result is that, when such cases arise, the sentence has to be set aside leaving only the conviction recorded against the offender.

CHAPTER IX.

47. This chapter, which deals with the execution of sentences to be passed under the Bill when it becomes law, is considerably shorter than the corresponding provisions of the Articles of War. The addition of the Prisoners Act (III of 1900) to the Statute-book has admitted of this, as all that the present Bill need arrange for (except in certain special cases) is the transmission of military convicts and prisoners to civil prisons, after which the above-mentioned Act provides for their discipline and, when necessary, their transfer to other such prisons or to convict establishments.

48. *Clause 108* allows the military authorities to transfer prisoners in special cases from military to civil custody, or to imprison them in any fit place. It retains in their hands a power (now conferred by article 152 of the Indian Articles of War) which might be of use in an emergency such as an epidemic. It also will admit of arrangements being made locally for the execution of a sentence of imprisonment passed in a colonial garrison when it is, for any reason, inconvenient or undesirable that the offender should be sent to India to undergo his sentence.

CHAPTERS X, XI, XII, XIII.

49. These chapters substantially reproduce the existing law on the subjects dealt with therein. In order to remove doubts a power of commutation has been inserted among those exercisable by the authorities empowered under clause 112 to deal with sentences passed by courts-martial.

50. In *clause 113* power is taken to authorize a Court of Inquiry to receive evidence on oath. This will admit of the procedure as to prisoners of war being assimilated to that under the Army Act, where the cases of such prisoners are in the first instance investigated by Courts of Inquiry. The amount and incidence of the collective fines to be imposed under clause 22 are included among the subjects to be dealt with in rules framed under this clause.

O'M. CREAGH.

The 4th August 1910.

R. SHEEPHANKS,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, OCTOBER 22, 1910.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

Simla, the 21st October, 1910.

No. 52.—The Governor General has been pleased, under rule 23 of the Rules for the Conduct of the Legislative Business of the Council of the Governor General, to order the publication of the following Bill, together with the Statement of Objects and Reasons relating thereto, in the *Gazette of India* in English, and the Bill and Statement of Objects and Reasons are accordingly hereby published for general information. It is proposed to introduce the Bill at a forthcoming meeting of the Legislative Council of the Governor General.

Suggestions in regard to the Bill will be taken into consideration by the Government of India if communicated to the Secretary to the Government of India in the Legislative Department by the 30th November next.

BILL No. 16 OF 1910.

A Bill to amend the Indian Ports Act, 1908.

WHEREAS it is expedient to amend the Indian Ports Act, 1908; It is hereby enacted as follows:—

1. This Act may be called the Indian Ports (Amendment) Act, 1910.
Short title.

2. For clause (p) of section 6, sub-section (1), of the Indian Ports Act, 1908, the following shall be substituted, namely:—

“(p) subject to the control of the Governor General in Council, for the prevention of danger arising to the public health by the introduction and the spread of any infectious or contagious disease from

vessels arriving at, or being in, any such port, and for the prevention of the conveyance of infection or contagion by means of any vessel sailing from any such port, and in particular and without prejudice to the generality of this provision, for—

- (i) the signals to be hoisted and the places of anchorage to be taken up by such vessels having any case, or suspected case, of any infectious or contagious disease on board, or arriving at such port from a port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any infectious or contagious disease; [Cf. Public Health Act, 1896, s. 1.]
- (ii) the medical inspection of such vessels and of persons on board such vessels; [Cf. Public Health Act, 1875.]

[Public Health Act, 1896, s. 1 (b).]

(iii) the questions to be answered and the information to be supplied by masters, pilots and other persons of such vessels;

[Public Health Act, 1896, s. 1 (c).]

(iv) the detention of such vessels and of persons on board such vessels;

[Public Health Act, 1896, s. 1 (d).]

(v) the duties to be performed in cases of any such disease by masters, pilots and other persons on board such vessels;

(vi) the removal to hospital and the detention therein of any person from any such vessel who is suffering or suspected to be suffering from any such disease; [Cf. s. 110, Public Health Act, read with s. 2, Public Health (Ships) Act, 1885.]

(vii) the cleansing, ventilation and disinfection of such vessels or any part thereof and of any articles therein likely to retain infection or contagion, and the destruction of rats or other vermin in such vessels; and

(viii) the disposal of the dead on such vessels; and".

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to enable provision to be made for the preparation of a satisfactory code of regulations for the prevention of the spread of disease by means of ships arriving at and departing from India. The provisions of the existing law are insufficient for this purpose, and they have been expanded accordingly, following generally the provisions of the English Public Health Acts.

The 20th October 1910.

J. L. JENKINS.

R. SHEEPSHANKS,

Offg. Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

CALCUTTA, SATURDAY, DECEMBER 24, 1910.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V.

Bills introduced in the Council of the Governor General of India for making Laws and Regulations, Reports of Select Committees presented to the Council, and Bills published under Rule 23.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

Calcutta, the 21st December 1910.

No. 65.—The Governor General has been pleased, under rule 23 of the Rules for the conduct of the Legislative Business of the Council of the Governor General, to order the publication in the *Gazette of India* in English of the following Bill, together with the Statement of Objects and Reasons relating thereto, and the Bill and Statement of Objects and Reasons are accordingly hereby published for general information. It is proposed to introduce the Bill at the meeting of the Legislative Council of the Governor General to be held on the 3rd January, 1911 :—

A Bill further to amend the Opium Act, 1857.

XIII of 1857. WHEREAS it is expedient further to amend the Opium Act, 1857 ; It is hereby enacted as follows :—

1. This Act may be called the Opium (Amendment) Act, 1910.
Short title.

XIII of 1857. 2. In section 3 of the Opium Act, 1857, for the words " in Calcutta " the words " of the United Provinces of Agra and Oudh " shall be substituted.
Amendment of Act XIII of 1857, s. 3.

3. Every order or direction issued, regulation made, sanction given or other thing lawfully done under the said Act by the Board of Revenue in Calcutta shall, after the commencement of this Act, be deemed to have been issued, made, given or done by the Board of Revenue of the United Provinces of Agra and Oudh.

4. Any order or direction, regulation, sanction or other thing purporting to have been issued, made, given or done under the said Act by the Board of Revenue of the United Provinces of Agra and Oudh prior to the commencement of this Act is hereby ratified and confirmed.

STATEMENT OF OBJECTS AND REASONS.

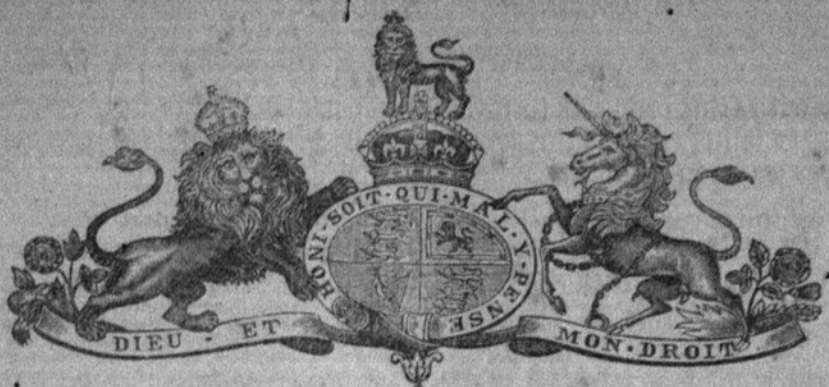
IN order that the administrative control of the Opium Department may be transferred from the Government of Bengal to the Government of the United Provinces, it is necessary to amend section 3 of the Opium Act, 1857, by the substitution in that section of the Board of Revenue of the United Provinces for the Board of Revenue in Calcutta.

GUY FLEETWOOD WILSON.

The 16th December, 1910.

J. M. MACPHERSON,

Secretary to the Government of India.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, JULY 30, 1910.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART VI.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED
FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE
PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 to 1909
(24 & 25 VICT., CAP. 67, 55 & 56 VICT., CAP. 14,
AND 9 EDW. VII, CAP. 4).

The Council met at Viceregal Lodge, Simla, on Friday, the 22nd July 1910.

PRESENT:

His Excellency THE EARL OF MINTO, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy
and Governor General of India, *presiding*,

and 26 Members, of whom 20 were Additional Members.

OATH OF OFFICE.

The following Additional Members, before taking their seats, made the prescribed oath of their allegiance to the Crown:—

The Hon'ble Mr. A. Earle, C.I.E.

The Hon'ble Mr. E. D. MacLagan, C.S.I.

CENSUS BILL.

The Hon'ble MR. JENKINS:—"My Lord, when Sir Herbert Risley introduced the Census Bill at Calcutta, he gave a clear account both of the subject of the Census and of the means by which it was proposed to carry them too, and I shall therefore only say a word or two. Since it was published some suggestions have been received, of which the only one of importance is one which is

connected with the proposal to provide a special schedule for mines, mills and factories. It is hoped that the schedule will yield valuable information as to the progress and condition of Indian industries.

"I beg to move that the Bill to provide for certain matters in connection with the taking of the Census be referred to a Select Committee consisting of the Hon'ble Mr. Sinha, the Hon'ble Mr. Earle, the Hon'ble Khan Zulfikar Ali Khan, the Hon'ble Lieutenant Malik Umar Hyat Khan, the Hon'ble Pandit Madan Mohan Malaviya, the Hon'ble Sardar Partab Singh and the mover. I would add, what is not in the notice, 'with instructions to report at the next meeting of the Council.' I believe it is well understood that the Bill will be passed at the next meeting."

The motion was put and agreed to.

INDIAN EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. ROBERTSON :—"My Lord, I fully explained the object of the Bill to amend the Emigration Act when I moved its introduction in this Council on the 23rd March last. It gives power to the Governor General in Council to prohibit emigration to any country for reasons which he may consider sufficient. The Bill has met with general support, and in moving that it be now taken into consideration I need only repeat what I said when the Bill was introduced, that the power proposed to be taken will not be lightly exercised and that emigration to any country to which it is at present lawful will not be closed without the fullest discussion of the case with the country concerned.

"I beg to move that the Bill to amend the Indian Emigration Act, 1908 be taken into consideration."

The motion was put and agreed to.

The Hon'ble MR. ROBERTSON moved that the Bill be passed.

The motion was put and agreed to.

CRIMINAL TRIBES BILL.

The Hon'ble MR. JENKINS moved for leave to introduce a Bill to amend the law relating to the registration, surveillance and control of Criminal Tribes. He said :—"My Lord, the Criminal Tribes Act of 1871 has been amended from time to time during the last twenty years. It has never been very satisfactory. The present Bill owes its origin to the Police Commission, who in their report pointed out the inadequacy of the Act in certain respects and made proposals for its improvement. The criminal tribes in India may be divided roughly into three classes. In the first place, we have tribes who, though originally criminal, have now settled down to honest occupations, although some sections of them, and many individuals, still live by crime. Such for instance are Kolis, Bhils and Ramusis. It would be unjust to class them as wholly criminal, yet in some parts of the country, for instance in Poona, if you don't pay a Ramusi watchman you stand a chance of having your house looted. Next, there are tribes who have settled abodes, and generally, some ostensible occupation, but who periodically proceed on raids, often at a great distance from their homes and live solely on their ill-gotten gains. Thirdly, there are the vagrants, gypsy-like classes, who roam over a great extent of country and commit depredations whenever opportunity offers. They are here to-day and gone to-morrow. In Northern India they are the terror of the countryside. Now, it is obvious that we must have different methods of dealing with these different classes. We hope that this Bill provides a means of dealing with the special circumstances of each case. The first step under the Bill is to notify a tribe, gang or class of persons as a criminal tribe. Thereafter the members of that tribe may be required to register themselves, to allow their finger-prints to be taken and to report absence and changes of residence. Provision for registration exists under the present Act, although at the time the Act was passed the system of finger-prints was unknown. I believe in the case of the more settled tribes this measure of registration alone will be sufficient.

Where registration is insufficient, recourse may be had to one of two courses—either to the restriction of the movements of the tribes within certain specified areas—and that provision is a new one—or to the measure, for which provision is made under the existing Act, of settlement of a tribe in a place of residence. Now, the mere restriction of the movements of a tribe within a certain area is in itself an exceedingly strong deterrent, because the people within that area know who these people are and are on their guard against them, and this measure is therefore likely to be efficacious. It is less restrictive than placing a tribe in a settlement. The method of settling tribes has been tried in certain cases, and it has not been found of great value, because first of all it is extremely difficult to provide a means of livelihood, and the measure is very costly. Where it is absolutely necessary for the protection of life and property it will be necessary to have recourse to settlement, but I do not believe that this course is ultimately advantageous. If you intern a tribe in a certain locality, if you keep them there, there is a great risk that you will merely harden them in their habits and perpetuate the tricks of the trade. The second part of the Act will be repealed. The provisions relating to reformatory schools have been to some extent elaborated. In other respects the provisions of the Bill are in accordance with the provisions of the existing Act and require no explanation."

The motion was put and agreed to.

The Hon'ble MR. JENKINS introduced the Bill.

The Hon'ble MR. JENKINS moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

INDIAN TRAMWAYS (AMENDMENT) BILL.

The Hon'ble MR. ROBERTSON:—"My Lord, I move for leave to introduce a Bill further to amend the Indian Tramways Act, 1886. As is explained in the Statement of Objects and Reasons, the Bill is intended to secure the application of the Indian Tramways Act to monorails and to bring electric tramways within the scope of the Act. As regards the first point, doubts have been raised as to whether a monorail would come within the description of a tramway as contemplated by the Tramways Act. None of the provisions of the latter Act favour the contention that it may be applied to a monorail system, while there are provisions which seem to show that the legislature in enacting the Act contemplated a system consisting of two parallel lines of rail and no other. The amendment of the law which is now proposed will remove the doubt which has been raised and will place this means of transport, which may develop largely in the future, on a legal footing. As regards the second point, the present Tramways Act was passed in 1886 before the introduction of electric traction into India, and its provisions are not sufficient to cover this form of traction when applied to a tramway. This defect will be removed if the present Bill is passed into law."

The motion was put and agreed to.

The Hon'ble MR. ROBERTSON introduced the Bill.

The Hon'ble MR. ROBERTSON moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

CANTONMENTS (AMENDMENT) BILL.

His Excellency THE COMMANDER-IN-CHIEF moved for leave to introduce a Bill further to amend the Cantonments Act, 1889. He said:—"My Lord, the Bill is quite a simple one and is explained in the Statement of Objects

and Reasons. Under section 17, sub-section (2), of the Cantonments Act, 1889, we are permitted to adapt in cantonments the Acts in force in municipalities for the assessment and recovery of a tax, but the penalties attached thereto are not permissible without invoking another section of the enactment. So it is proposed to amend this.

"The second part is thought desirable to prevent trespassing over open spaces and gardens and walking into soldiers' lines in cantonments. Under sub-section (17) of section 26, we are permitted to do so, but there is no penalty attached and it is proposed to amend the section so as to cover a penalty."

The motion was put and agreed to.

His Excellency THE COMMANDER-IN-CHIEF introduced the Bill and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Sinha, the Hon'ble Major-General Sir Robert Scallon, the Hon'ble Mr. MacLagan, the Hon'ble Sardar Partab Singh, the Hon'ble Khan Zulfikar Ali Khan, the Hon'ble Lieutenant Malik Umar Hyat Khan and the mover, with instructions to report at the next meeting of the Council.

The motion was put and agreed to.

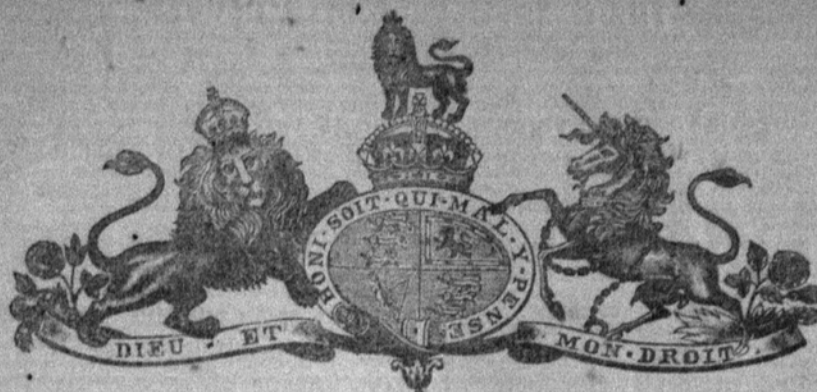
The Council adjourned to Friday, the 5th August 1910.

R. SHEEPSHANKS,

*Offg. Secretary to the Government of India,
Legislative Department.*

SIMLA;

The 23rd July 1910.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 13, 1910.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART VI.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA. LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED
FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE
PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 to 1909
(24 & 25 VICT., CAP. 67, 55 & 56 VICT., CAP. 14,
AND 9 EDW. VII, CAP. 4).

The Council met at Viceregal Lodge, Simla, on Friday, the 5th August 1910.

PRESENT :

The Hon'ble MR. J. L. JENKINS, C.S.I., *Vice-President, presiding,*
and 34 Members, of whom 28 were additional Members.

The Hon'ble MR. JENKINS : "I much regret to announce that His Excellency the Viceroy is unfortunately ill and will not be able to preside at this meeting. We will, therefore, take the non-contentious business which is on the paper, complete that, and adjourn till to-morrow morning 11 o'clock, when His Excellency hopes to be able to attend.

"The Hon'ble Mr. Earle will be delegated to take the non-contentious business on the agenda paper which stands in my name."

QUESTIONS AND ANSWERS.

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

"(a) Will the Government be pleased to lay on the table a complete return of the books, newspapers and other publications ordered to be forfeited

by the Imperial and the various Provincial Governments under Act I of 1910 (the Press Act) since the enactment of that measure in February last?

“(b) Will the Government be pleased to explain the disparity of treatment accorded to old presses and newspapers in the various provinces of the Empire in the matter of depositing security while changing printers or offices?

“(c) Will the Government be pleased to state whether it would be prepared, before calling for security in respect of any publication or declaring its forfeiture, to furnish the editor, publisher or author of such publications with the passages or chapters taken exception to by the Government? And will the Government be pleased to state whether on such passages or chapters being taken out from subsequent editions of such publications the notice of forfeiture will be withdrawn in respect of such editions?

“(d) If the Government is not disposed to issue notices as suggested in the preceding question, will the Government be pleased to direct that whenever any newspaper, book or other document is declared to be forfeited to His Majesty under section 12 of the Indian Press Act, the word or words, passage or passages, considered objectionable, be stated in the order of forfeiture?

“(e) Will the Government be pleased to issue instructions to Local Governments to the effect that it is not intended under the Indian Press Act (I of 1910) to demand security from the keepers of existing presses or publishers of existing newspapers, even if any fresh declaration is made under the Press and Registration of Books Act, unless they offend by printing or publishing matter which is objectionable under section 4 of the Indian Press Act?”

The Hon'ble MR. EARLE replied :—

“(a) A return of newspapers, books and other documents of which the forfeiture has been ordered by Local Governments under section 12 of the Press Act is laid* on the table. No orders are issued under that section by the Imperial Government.

“(b) The Hon'ble Member has doubtless seen the resolution recently issued by the Government of Bombay, which contained the orders of the Government of India in regard to the treatment to be accorded to old presses and newspapers. It is true that before those orders were received security had been demanded from certain keepers of presses and publishers to whom the principles upon which exemption may be granted properly applied. On receipt of the orders the mistake was rectified, and the Government of India have every reason to believe that the principles enumerated by them have removed all likelihood of disparity of treatment in future.

“(c) The object of the Act being not punitive but preventive, the Government of India have already advised Local Governments to convey warnings to offending newspapers or presses rather than to issue at once an order demanding security, when it is believed that such warnings will be effective. They do not propose to prescribe to Local Governments the form in which warnings shall be conveyed, but it may be inferred that in order to render such warnings effective, the offending passages or articles are usually indicated. If the latter part of the Hon'ble Member's question refers to publications of which the forfeiture has been ordered under section 12, I would point out that orders under that section refer only to the individual edition specified in the notification, and that if subsequent editions were published containing no matter of the nature described in section 4 (1) of the Act, those editions would of course not be liable to forfeiture.

“(d) The Hon'ble Member will observe that in cases of forfeiture under section 12 (1) of the Act, the law requires the Local Government merely to state in its notification the grounds of its opinion upon which the declaration of forfeiture is based. On the other hand, in orders of forfeiture passed under sections 4, 6 and 9, the Local Government is required by law to state or describe

* Vide Appendix A.

the words, signs or visible representations which, being of the nature described in section 4 (1), render security deposited by a keeper of a printing press or by a publisher liable to forfeiture. The difference in procedure was prescribed advisedly, and the Government of India are not prepared to request Local Governments to go beyond the requirements of the law.

"(e) The Government of India have already advised Local Governments that when fresh declarations are made, security should not be demanded from the keepers of existing newspapers which are well conducted. As has already been observed, the object of the Act is to prevent not to punish offences, and past good conduct and the likelihood of future good conduct may legitimately be required as conditions of exemption. The Government of India are not, therefore, prepared to rule that in such cases security should only be demanded when the offence of publishing matter of the nature described in section 4 (1) has actually been committed."

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

"(a) Will the Government be pleased to make a statement as regards the present political condition in the province of Eastern Bengal and Assam ?

"(b) Will the Government be pleased to state why, in spite of assurances given by their promoters regarding the selection of subjects and speakers, the conferences that were proposed to be held in Faridpur, Barisal and Mymensingh in April last were proclaimed under orders of the Government of Eastern Bengal and Assam ? Is the Government aware that as a matter of fact guarantees were offered in the districts of Faridpur and Mymensingh ?

"(c) Is the Government aware of the great dissatisfaction caused throughout the country by the suppression of these conferences ?"

The Hon'ble MR. EARLE replied :—

"(a) Government do not consider that it is necessary or desirable to make any statement as regards the present political condition in the province of Eastern Bengal and Assam.

"(b) The Lieutenant-Governor of Eastern Bengal and Assam explained clearly at a meeting of his Council held on the 6th April 1910, that it was owing to the fact that satisfactory assurances were not given by the promoters of the proposed conferences that the districts of Faridpur, Barisal and Mymensingh were proclaimed. The action taken by the Government of Eastern Bengal and Assam had the unqualified approval of the Government of India, as it appeared that the conferences were not intended for the discussion of legitimate local topics, but were part of a concerted scheme to instil fresh feelings of disaffection and lawlessness and to revive agitation. As regards the last part of the question, the reply is that the guarantees were by no means considered satisfactory.

"(c) The Government are not aware that great dissatisfaction has been caused throughout the country by the suppression of these conferences, though, no doubt, the action taken was the cause of disappointment to the promoters and their friends."

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

"Will the Government be pleased to lay on the table a return showing the instances in which the Prevention of Seditious Meetings Act, 1907, has been put into operation since November, 1907 ?"

The Hon'ble MR. EARLE replied :—

"A return* showing the instances in which the different provisions of the Prevention of Seditious Meetings Act has been put into operation is laid on the table."

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

“Will the Government be pleased to inquire if in trials under Act XIV of 1908 (*an Act passed to provide for the more speedy trial of certain offences*) an inordinate delay does not often take place in the preliminary inquiry by the Magistrate, and will the Government be pleased to issue directions to expedite the inquiry stage of such cases ?”

The Hon'ble MR. EARLE replied :—

“The Government have no reason to believe that any inordinate delay occurs in the preliminary inquiry by the Magistrate in cases to which the procedure of Act XIV of 1908 has been applied. They find that in all such cases which have been committed to the Special Bench of a High Court up to date, with two exceptions, the average duration of the proceedings from the date of the order under section 2 (1) of the Act to the date of commitment has been slightly less than 1½ months. The two exceptions referred to are the Nasik and the Howrah-Sibpur conspiracy cases which occupied a period of about 4 and 5 months respectively prior to commitment, owing to the very large number of witnesses whom it was necessary to examine.

“The Government have no reason to think that every endeavour is not made to expedite the inquiry stage of these cases or that it is necessary to issue special directions in the matter.”

The Hon'ble BABU BHUPENDRA NATH BASU : “May I be permitted to put a supplementary question to the one that has just now been answered? In regard to the Howrah case, may I enquire if certain persons charged with the offences were not discharged by the Magistrate after inquiry lasting for four and half months, during which period these unfortunate persons were not released on bail?”

The Hon'ble MR. EARLE : “Mr. President, I scarcely think that that question arises out of the previous question which has been put by the Hon'ble Member. But, if he wishes that question to be answered, I must ask for notice.”

THE VICE-PRESIDENT : “I think that there should be notice about that question.”

The Hon'ble BABU BHUPENDRA NATH BASU : “As you think, Sir.”

The Hon'ble BABU BHUPENDRA NATH BASU asked :—

“Is the Government aware that robberies and outrages are taking place in running trains, particularly in the zenana compartments? Will the Government be pleased to adopt measures calculated to ensure a feeling of safety amongst all, specially the female passengers, and to prevent a recurrence of such offences?”

The Hon'ble SIR T. R. WYNNE replied :—

“The question of preventing robberies and outrages in running trains is one that has for some time past been the subject of the Railway Board's most careful attention.

“Two years ago the whole subject was carefully gone into at a conference at which all Indian Railways were represented, and as the result of careful consideration and in light of the many suggestions that had been made by the Press and in letters to the Railway Board, certain precautionary measures were adopted.

“The measures that were taken to prevent outrages and robberies are fully detailed on page 19 of the Railway Board's Administration Report for the year 1909.

“The difficulty is to devise measures which will entirely prevent all thefts and outrages occurring in running trains, and this is a problem which no country in the world has yet solved, robberies and outrages occurring on railways

of every country from time to time. In England, in last March, a colliery clerk named Nisbet was robbed and murdered in a train near Morpeth station on the North-Eastern Railway, and if foreign newspapers are read instances of train outrages will be found frequently recorded. As indicating the difficulty of solving the problem and the different views held as to the measures to be taken I will now quote a letter written by an Indian official gentleman to the East Indian Railway.

"In this letter he argues strongly against carriages being fitted with the means of stopping trains when running, and the removal of continuous footboards, both being measures the general public most strongly urged as being of the highest protective power and which have both been introduced.

"His remedy for the protection of females is that next to the female compartment on every train there should be another compartment in which the guardians of the female passengers should be able to travel, there being communication between this compartment and the one for the use of females. This arrangement might suit when females were accompanied by their male relatives, but when travelling alone the means of communication between the two compartments would simply be in the direction of assisting a criminal to gain access to the female compartment.

"The difficulty of the problem to be solved and the conflicting proposals made to deal with it have been indicated to show that while the Railway Board are fully alive and are most anxious to do everything to prevent outrages, it is a question that does not easily lend itself to solution and the experience of other countries which also have not been able to solve the problem is of no assistance.

"The effect of the measures that have been introduced has certainly been to reduce the number of such cases, and the public may feel assured that the Railway Board will continue to press for further additional precautions that may hold out hopes of tending to still further reduce the possibility of such occurrences."

The Hon'ble BABU BHUPENDRA NATH BASU: "Is the Government aware that a proposal was submitted to the Railway Board by one Mr. H. M. Pringle, mechanical engineer of Dehra Dun, in the year 1907, submitting a design of automatic door locks which would automatically close the doors when the train was in motion and open as soon as the train stops, and also a design of a collapsible window-guard. Will the Government be pleased to state what action, if any, has been taken in this matter?"

The Hon'ble SIR T. R. WYNNE: "A proposal was submitted by Mr. Pringle, but it was a very sketchy one and not worked out. It was coupled with the suggestion that he should be given an appointment on State Railways to work out his ideas. At the same time I wish to point out that even if a system of automatically locking the doors when the train was in motion had been at work on the train in which the Tinpahar outrage was committed, it would not have prevented its occurrence.

"In the *Amrita Bazar Patrika* newspaper of the 1st August appeared an account of what occurred, from which I will read the following extract:—

"In connection with the atrocious robbery at Tinpahar station on the East Indian Railway in which a Bengali lady was attacked by Charu Chunder Roy, the lady has made a statement to the Magistrate at the Jamalpur Railway Hospital. She states that at Tiljhari station she noticed the accused standing on the footboard on the platform side and peeping into the compartment. She hastily raised the shutters on the platform side, but the accused (who must have crossed the buffers) appeared on the off-side footboard, and before she could raise an alarm he got into the carriage and threatened her with death if she screamed."

"From this account it is clear that the man entered the carriage when the train was at a standstill and when the doors would not have been locked if the train had been fitted with an automatic arrangement for locking doors which came into operation only when the train was in motion.

"How a criminal, apparently a *bona fide* passenger, is to be prevented from taking a ticket, coming on to a station platform and entering a railway

carriage is a problem which the Railway Board would very much like to see solved if it was possible to do so."

The Hon'ble BABU BHUPENDRA NATH BASU: "Will the Government be pleased to consider the desirability of placing a guard on either side of the female compartment?"

The Hon'ble SIR T. R. WYNNE: "Is the guard to be a man or a woman?"

The Hon'ble BABU BHUPENDRA NATH BASU: "Women guards would be quite enough."

The Hon'ble BABU BHUPENDRA NATH BASU asked:—

"(a) In reply to a question put by the Hon'ble Raja Pramada Nath Ray of Dighapatia in Council on the 18th March 1910, regarding the action which the Government proposed to take in the matter of 'an effectual advance in the direction of local self-government', as indicated in the despatch of Lord Morley dated the 27th November 1908, and also in the Report of the Royal Commission on Indian Decentralization, published on the 27th February 1909, the Government was pleased to state that the matter had been referred, or was about to be referred, to the Local Governments for their opinion.

"(b) Will the Government be pleased to say what progress has been made in the consideration of the question referred to above?"

The Hon'ble MR. EARLE replied:—

"The opinions of Local Governments and Administrations have been invited upon all the proposals of the Decentralization Commission which relate to matters of local self-government, namely, those contained in Part III of the Report. The Government of India are not yet in possession in a complete form of the views of Local Governments on all the matters which were referred to them, and it is impossible for them to arrive at definite conclusions on any of these questions until they are fully informed of the views of the Local Governments. Owing to the important and complicated nature of the considerations raised by the Royal Commission's proposals, both the Local Governments and the Government of India will necessarily require ample time to formulate their conclusions."

The Hon'ble MR. GOKHALE asked:—

"Will the Government be pleased to lay on the table a return, showing the cases in which action has been taken by the various Provincial Governments and Administrations under the Press Act of February last?"

The Hon'ble MR. EARLE replied:—

"A return* showing the cases in which action has been taken by Local Governments and Administrations under section 12 of the Press Act is laid on the table. Action taken under sections 4, 6, 9, 11 and 12 alone are, under the orders of the Government of India, reported to them, and as they have received no reports under sections 4, 6, 9 and 11 they presume that no orders have been issued thereunder. Full information as to the action taken under the other provisions of the Act can only be obtained from Local Governments, and as the working of the Act in general will be noticed in the annual report on newspapers, the Government of India do not consider it necessary to call for special returns."

The Hon'ble MR. GOKHALE asked:—

"Will the Government be pleased to state on what grounds Mr. Mac-karness's pamphlet on 'the methods of the Indian Police in the 20th century'

* Vide Appendix A.

has been proscribed in India? Is it not a fact that the pamphlet strings together for the most part extracts from the findings of Judges, the reports of Commissions appointed by Government, and similar authorities? Will Government state whether the matter that has been held to be dangerous is contained in these extracts or in any original observations of Mr. Mackarness?"

The Hon'ble MR. EARLE replied :—

"The pamphlet by Mr. F. C. Mackarness on 'the methods of the Indian Police in the 20th century' was proscribed on the ground that it contains words which have a tendency to bring the Government established by law in British India into hatred and contempt. The pamphlet consists for the most part of extracts from judicial and departmental pronouncements on selected cases of police oppression or abuses, interspersed with comments by the compiler of the pamphlet, conveying the imputation that such scandals were common to the whole police-force and were connived at by the Government of India and its responsible officers. The objectionable matter is contained both in these comments and in the manner in which the extracts were presented to the public."

The Hon'ble MR. GOKHALE asked :—

"Have the Government noticed the case of a new paper in Urdu called the *Punjab Advocate*, started at Mianwali, in which it is reported that the Deputy Commissioner declined to accept security in Government Promissory Notes? Will the Government state if it is in the discretion of any Magistrate to accept or not accept Government Promissory Notes when tendered as security?"

The Hon'ble MR. EARLE replied :—

"The incident referred to in connection with the *Punjab Advocate* has not been brought to the notice of the Government. The answer to the latter part of the question will be found in sections 3 and 8 of the Press Act, which provide that security may be tendered either 'in money or the equivalent thereof in securities of the Government of India'."

The Hon'ble MR. GOKHALE: "Will the Hon'ble Member state with whom the discretion rests in the matter—with the person who tenders the security or with the Magistrate who accepts the security?"

The Hon'ble MR. EARLE: "I understand that the discretion rests with the person who tenders."

The Hon'ble MR. GOKHALE asked :—

"(a) Is the Government aware that a number of British Indians, subjects of His Majesty, many of them Colonial born, have been forcibly deported to India by the Transvaal authorities with the assistance of the Government of a foreign country?"

"(b) Will the Government be pleased to state what action, if any, has been taken in the matter."

The Hon'ble MR. ROBERTSON replied :—

"The Government of India are aware that a number of British Indians, subjects of His Majesty, certain of whom claim to have been born in South Africa, have lately been deported to India. These persons have been removed from the Transvaal under the provisions of section 7 of the Asiatics Registration Amendment Act of 1908, for refusing to produce certificates of registration, and on their arrival in Portuguese territory they have been compelled to leave for India under a local bye-law of the Portuguese Administration."

"The Government of India have made representations to His Majesty's Secretary of State on the subject of these deportations, and the matter is still under consideration."

The Hon'ble MR. GOKHALE : " Have the Government inquired into the condition in which the deportees arrived in India and into the charges which have been made of their ill-treatment on board ship ? "

The Hon'ble MR. ROBERTSON : " Yes, Sir, such inquiries have been made both at Bombay and Madras from the returned Indians. The inquiries were made because of allegations as to bad treatment and improper food, more particularly on board ship. Though we should not minimise the inconvenience and hardship to which the returned Indians have been put by their summary deportation from South Africa, it must be stated that the reports which we have received do not generally bear out the allegations to which I have referred. The general tenor of the reports has been that the deported Indians rather gloried in the experience which they had passed through and were prepared to make light of the inconveniences to which they had been put. For the information of the Hon'ble Member I shall briefly mention the gist of some of the reports we have received.

" The Commissioner of Police, Bombay, reported regarding the first batch of deported Indians who reached Bombay in May, with regard to whose treatment most complaint was made, that the men were cheerful and showed little signs of having suffered hardships. They did not express anxiety about their families left behind in South Africa. It is true that most of them had no money on arrival in India and had to be assisted with funds collected locally, but the one desire they expressed was to return to South Africa to continue the struggle.

" A further report has been received about a batch of returned Indians who reached Bombay on the 11th July by the *S. S. Praesident*. They said they had been conveyed by rail second class to Lorenzo Marques and had been well treated and fed on the railway and at Delagoa Bay, but they complained against the food and accommodation on board ship. They had no reports of ill-treatment to make and were cheerful and healthy looking.

" Of the batch which arrived in Madras early in June *viâ* Colombo and Tuticorin, the Protector of Emigrants, Madras, was able to record the statements of only 4 persons, as the remainder had gone to various places in the Madras Presidency. The Protector of Emigrants reported that they were all respectably attired in European style and that their appearance evidenced anything but a miserable condition or bad treatment on the voyage to India."

The Hon'ble MR. GOKHALE asked :—

" Will the Government state what is the total amount that has been spent up to now out of current revenues on railway construction in British India ? "

The Hon'ble SIR GUY FLEETWOOD WILSON replied :—

" As regards the construction of railways (mainly protective and strategic lines) which has been specifically charged to revenue, the Hon'ble gentleman will find the latest information at page 247 of the Finance and Revenue Accounts for 1908-09. The expenditure on this account up to 31st March 1910 was approximately £10½ millions.

" The funds for the capital expenditure on ordinary railways, however, are drawn from our cash balances, and exceed by considerable amounts the sums which are raised by loan for railway construction. But it is not possible to say with precision to what extent the current revenues have contributed to those funds in the past. The resources from which the capital expenditure is derived were not classified until the year 1905-06. From that year onward, however, the information desired by the Hon'ble Member is available, and he will find it in full detail at page 245 of the Finance and Revenue Accounts for 1908-09."

The Hon'ble MR. GOKHALE asked :—

" Will the Government be pleased to state if the examination of my proposals on the subject of elementary education, which was promised last March, has been concluded ? Are the Government in a position to state what steps are in contemplation to provide for a large extension of elementary education in the country ? "

The Hon'ble MR. EARLE replied:—

"The examination of the proposals regarding elementary education referred to in the Hon'ble Member's question has been undertaken, but is not yet concluded: the Government of India are therefore not yet in a position to make a pronouncement upon the subject."

The Hon'ble MR. GOKHALE asked:—

"Will the Government be pleased to state what form the proposed inquiry into the growth of expenditure, foreshadowed by the Hon'ble the Finance Member in his speech on the Budget last March, will take, and when it will begin?"

The Hon'ble SIR GUY FLEETWOOD WILSON replied:—

"The Hon'ble Member presumably refers to the remarks made in my speech of 30th March last, regarding the necessity for carefully watching the growth of Civil Expenditure and considering the directions in which economy is possible. The examination which I then foreshadowed of the financial position and outlook has already been undertaken in the Finance Department and is making steady progress."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA asked:—

"Will the Government be pleased to lay a statement on the table showing in what districts and under what circumstances the Prevention of Seditious Meetings Act of 1907 has been enforced since it was passed?"

The Hon'ble MR. EARLE replied:—

"All the information asked for by the Hon'ble Member will be found in the return* which is being laid on the table in response to a request made by the Hon'ble Babu Bhupendra Nath Basu, with the exception of the circumstances in which the Backerganj District in Eastern Bengal and Assam, and the Rohtak District in the Punjab, were proclaimed in November 1907 and June 1910, respectively. As regards the former the reason for the action taken was the general turbulence of the district at that period. The Rohtak District was proclaimed because meetings were being organised at which subjects likely to cause disturbance and public excitement were to be discussed."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA: "Will the Government be pleased to state the nature of the subjects that were likely to be discussed, whether they were those bearing on politics or religion or social reform?"

The Hon'ble MR. EARLE: "I think that the subjects were all of those which the Hon'ble Member has referred to: they were social, political, and religious; that is what I can remember from the papers."

CANTONMENTS BILL.

His Excellency THE COMMANDER-IN-CHIEF presented the Report of the Select Committee on the Bill further to amend the Cantonments Act, 1889.

His Excellency THE COMMANDER-IN-CHIEF moved that the Report of the Select Committee be taken into consideration.

The Hon'ble LIEUTENANT MALIK UMAR HYAT KHAN said:—"The present Bill to consolidate and amend the law relating to cantonments which is now before the Council is undoubtedly a very useful measure, but certain amendments in it might have been needed. I wanted to propose some which were to the effect—

"Firstly, section 11 to include relations and other members of a soldier's family in order to give the terms a wider scope. Secondly, section 13 (2) to empower the police-officer to seize and detain any spirituous liquor or intoxicating drug within the cantonment in the case of a second offender as well as a first. This is necessary because by the time the officer gets written permission from the Magistrate the offender may conceal or dispose of the contents and it may be difficult to find a clue afterwards to prove the charge. Thirdly, section 24 (17) to make a distinction between the unenclosed spaces belonging to private individuals and those belonging to the Government. Fourthly, section 24 (22) to provide compensation for the destruction of animals in cases where compensation is allowed by any law or enactment for the time being in force for such diseases. Fifthly, section 24 (23) to suggest an inquiry and the assignment of reasons in case the commanding officer deems the exclusion of any person from the cantonment expedient. Sixthly, section 24 (26) to include the registration of marriages together with the registration of births and deaths

as some people use cantonments as a shelter in certain cases. Seventhly, section 25 (4) to provide simple imprisonment for offences referred to in the section, to dispense with the imposition of daily fines, and to suggest that the order should be final and not with prospective effect. I may also have said something about taxes.

"But as it is not the custom to propose amendments in consolidating Bills, I did not press them. I had written all the answers to objections in some of the memorials sent to Hon'ble Members, but as they are not before the Council, I do not take their time.

"I think that the Bill, as it stands, is a mild one knowing the affairs and the class of people who loiter around and muster in cantonments and with whom the cantonment authorities have to deal.

"With these remarks I beg to support the Bill."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA said :—"I should like to say a few words, Sir, before this Bill is passed. I understand, now that the Cantonment Acts have been consolidated, that there would be a question whether the Cantonment Code should not be revised and whether the rules which the Act empowers the Governor General in Council to make under the Act will not have to be formally reframed. I hope that this will be done, and I hope that the opportunity will be taken to consider some of the complaints which have been made from time to time with regard to the rules made under the existing Act. I hope both His Excellency the Commander-in-Chief and the Government of India will consider the desirability of making some distinction between *sadr* or Indian bazars, as they are now generally called, and regimental quarters proper, where the troops reside. In the *sadr* bazars a large number of Indians have taken up their abode, have invested much money in property and are carrying on trade or pursuing their professions. When the stringent rules of the cantonments are applied to these Indian bazars in the matter of the expulsion of persons, who are regarded as 'undesirable' and of persons whose exclusion from the cantonment area the Commanding Officer considers to be desirable, it gives rise to serious complaints of injustice and hardship. There have been cases published in the papers in which complaint has been made that the expulsion has been unjust. I do not wish to go into these cases at present, but I beg His Excellency the Commander-in-Chief and the Government to consider whether it is not desirable, in the case of persons who reside, not in the regimental quarters proper, but in the Indian bazars, to make some better provision to provide against cases of injustice in action taken under sections 210 and 211 of the Cantonment Code. In the matter of taxes also, there is a complaint that they are too many and in some places too heavy. And it is urged that in order to give the taxpayers an opportunity to have their interests and views presented to the military authorities with regard to the nature and rate of the taxes, and generally with regard to the administration of the rules and regulations which affect them, they should be given the right of electing a few of their representatives on the Cantonment Committee. This privilege has been extended to Indian residents in some of the cantonments. It would provide an effectual remedy against many small complaints if it is extended in others. I hope these matters will receive consideration. I hope also that when the Code is being revised the public will be given an opportunity to offer suggestions for the consideration of the military authorities and the Government. With these remarks I beg to support the motion that has been made."

The Hon'ble MR. MADGE: "Mr. President, I desire very briefly and very respectfully to submit for consideration to His Excellency the Commander-in-Chief and the Law Member the question whether the omission of the words 'or otherwise' in the 25th section of this Act would entail any serious inconvenience, or any inconvenience at all, on the cantonment authorities. At the last moment, when it is too late for me either to put any question or submit any amendment, if I had a desire to do so, I have received a number of papers from a sanitary depôt on the Himalayas, which is not only not a cantonment, but has never been declared to be a cantonment, in fact has been declared not to be a cantonment, all of which I have not been able to read in the short time at my disposal, but from which it will clearly be seen a good deal of friction has arisen in this depôt from the desire of the Government to convert it into a cantonment. Now, no sensible person in my humble opinion questions the paramountcy of those military considerations which make the

authority of the cantonment officer supreme. What I have to say does not impinge at all upon those privileges which the Government has rightly reserved for its cantonment authorities. The point which I wish to make out is this: under section 3 of the Act power is conferred on Local Governments to make any place a cantonment. Then, considerable powers are conferred or will be vested in the cantonment authority, which may in some instances be a committee or, if a committee be not appointed, be a single person, such as the Commandant. In the case to which I have referred....."

The Hon'ble MR. SINHA: "I rise to a point of order. I do not think the Hon'ble Member is in order in moving these amendments, which I understand he is doing."

The VICE-PRESIDENT: "I did not understand that the Hon'ble Member intended to move an amendment; but if it is his intention to do so, he is clearly out of order."

The Hon'ble MR. MADGE: "I implied at starting that it was not my intention to move any amendment. I wanted only very briefly and very respectfully to submit these points for the consideration of His Excellency the Commander-in-Chief. May I proceed?"

The VICE-PRESIDENT: "You may proceed, but you will not be in order in moving amendments."

The Hon'ble MR. MADGE: "I have no desire to move any amendments at all. I simply wish to call attention to these facts which are deserving of consideration and which, I feel certain, will receive the consideration of His Excellency if they are brought to his notice."

"A considerable amount of private property has grown up in this place and friction has arisen from the desire to make this place a cantonment. Well, Sir, the appeal will be made entirely to the justice of the Government and will be left entirely in the hands of the Government. What these people will look for, I presume, will be some sort of compensation as is always justly made by the Government. What occurred to me in reading the papers in the very little time I had to read them, was that the words 'or otherwise' after the word 'compensation' in section 26 introduced an unknown alternative. If, as it is, the compensation is left in the hands of Government, appeals for compensation will be made to the Government and decided by the Government, and it will probably create a good deal of anxiety if some other alternative, included in the words 'or otherwise,' which is not described, remained in the law."

"I simply submit this point for consideration."

The Hon'ble MR. SINHA: "Mr. President, I think I ought to explain to Hon'ble Members that when there is a consolidation Bill, properly so called, before the Council, it is not the practice either of this Council, or of any other legislative assembly that I am aware of, to introduce amendments or to comment on the Act generally. In fact, the work of consolidation would be absolutely impossible if, every time that we undertook that work, the whole Act was put, so to speak, in the melting pot for Members to comment on the policy of the Act generally. The origin of the present Bill, as Hon'ble Members will remember, was this: two trivial amendments were proposed by the Army Department through His Excellency the Commander-in-Chief, namely, (1) to confer the right to prevent indiscriminate use being made of open spaces in cantonments; and (2) to remedy an omission which existed in the Act as it stood inasmuch as it did not give power to impose penalties for the non-payment of taxes which could be levied under a particular section. These were the only two amendments which were in question, and the Legislative Department took advantage of the opportunity to consolidate the Act by omitting certain words which were no longer necessary by reason of the subsequent General Clauses Act. That was the whole object of the Act, namely, consolidation and a few merely verbal changes were made such as putting in the words 'His Majesty' instead of 'Her Majesty' as it existed in the old Act. That is all that has been done, and I only explain this with a view to future occasions when the work of consolidation may be undertaken with regard to other Bills, that when we are consolidating all that we are doing is to put in one Act that which up to that moment exists, probably, in eight, or nine, or ten, merely for the purpose of convenience of reference, so that you may not have to refer to eight Acts instead of one. That is all that is done, and, on these occasions, I hope Members will satisfy

themselves that nothing beyond consolidation has been attempted. That is all that they ought to do on these occasions. It is not the intention, and consolidation would be impossible, as I said, if every time we put together eight Acts in one, the whole policy underlying those eight Acts was to be brought under discussion."

The Hon'ble BABU BHUPENDRANATH BASU: "May I be permitted to call the Hon'ble Member's attention to the preamble of the Act,—'Whereas it is expedient to consolidate and amend.'"

The Hon'ble MR. SINHA: "Yes, that refers to the two amendments that I draw the attention of Hon'ble Members to—the two trivial amendments that I spoke of."

The motion was put and agreed to.

His Excellency THE COMMANDER-IN-CHIEF moved that the consolidating Bill proposed by the Select Committee be passed. He said:—"My Hon'ble Colleague Mr. Sinha has explained what these two amendments are, and they have been before the Committee; so there is no good my saying any more about it."

The motion was put and agreed to.

ARMY BILL.

His Excellency THE COMMANDER-IN-CHIEF moved for leave to introduce a Bill to consolidate and amend the law relating to the government of His Majesty's Native Indian Forces. He said:—"I may explain that with the lapse of time the Indian Articles of War, originally framed in 1869 and amended in 1894, have become unsuited to modern conditions and have been found to require amendment in many respects. Legislation having thus become necessary, the opportunity has been taken to prepare a new and, it is hoped, a simpler code of military law instead of attempting to modify the existing Articles which have already been obscured by numerous amendments."

The motion was put and agreed to.

His Excellency THE COMMANDER-IN-CHIEF introduced the Bill.

His Excellency THE COMMANDER-IN-CHIEF moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

INDIAN CENSUS BILL.

The Hon'ble MR. EARLE presented the Report of the Select Committee on the Bill to provide for certain matters in connection with the taking of the Census. He said:—"The Select Committee's Report is on the table. We have made very few additions to the Act and those that have been made were explained by the Hon'ble Home Member at the last meeting of the Council a fortnight ago. The only one of any importance whatever is that referred to in paragraph 5 of the Report. It relates to an amendment of clause 9 of the Bill, making provision so that we can obtain information regarding skilled and unskilled hands in factories. At the census of 1901, as the Hon'ble Member explained at the last meeting, it was very difficult to extract from the ordinary census schedules the information that we required as regards industries, and on this occasion we have provided a special schedule so as to show the skilled and unskilled hands. That is the only real amendment that has been made and I have nothing further to say in regard to the Report of the Select Committee."

The Hon'ble MR. EARLE moved that the Report of the Select Committee be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. EARLE moved that the Bill, as amended, be passed.

The motion was put and agreed to.

The Council adjourned to Saturday, the 6th August 1910.

SIMLA;

The 11th August 1910.

R. SHEEPHANKS,

Offg. Secretary to the Government of India,
Legislative Department.

APPENDIX A.
Statement of publications proscribed in each province under the Indian Press Act, 1910.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).	1. Ca Ira (a pamphlet).
India, dated 12th February 1910 (newspaper of Pondicherry).	....	2. India, dated 12th February 1910 (newspaper of Pondicherry).	2. India, dated 12th February 1910 (newspaper of Pondicherry).	....	2. India, dated 12th February 1910 (newspaper of Pondicherry).	2. India, dated 12th February 1910 (newspaper of Pondicherry).	2. India, dated 12th February 1910 (newspaper of Pondicherry).	2. India, dated 12th February 1910 (newspaper of Pondicherry).	2. India, dated 12th February 1910 (newspaper of Pondicherry).
Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	....	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	....	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).	3. Suryodayam, dated 13th February 1910 (newspaper of Pondicherry).
Indian War of Independence (a book by V. D. Savarkar).	2. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	2. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).	4. Indian War of Independence (a book by V. D. Savarkar).
Talvar or Shamsheer (a newspaper).	3. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).	3. Talvar or Shamsheer (a newspaper).	....	5. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).	5. Talvar or Shamsheer (a newspaper).
Chooze, Oh, Indian Princes! (a pamphlet).	4. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	4. Chooze, Oh, Indian Princes! (a pamphlet).	5. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).	6. Chooze, Oh, Indian Princes! (a pamphlet).
Bande Mataram of Berlin (10th September and 10th October 1909).	....	....	....	....	6. Bande Mataram of Berlin (10th September and 10th October 1909).	7. Bande Mataram of Berlin (10th September and 10th October 1909).	7. Bande Mataram of Berlin (10th September and 10th October 1909).	7. Bande Mataram of Berlin (10th September and 10th October 1909).	7. Bande Mataram of Berlin (10th September and 10th October 1909).
....	5. Hind Swarajya (a Gujarati book by M. K. Gandhi).	7. Hind Swarajya (a Gujarati book by M. K. Gandhi).	7. Hind Swarajya (a Gujarati book by M. K. Gandhi).	....	7. Hind Swarajya (a Gujarati book by M. K. Gandhi).	8. Hind Swarajya (a Gujarati book by M. K. Gandhi).	8. Hind Swarajya (a Gujarati book by M. K. Gandhi).	8. Hind Swarajya (a Gujarati book by M. K. Gandhi).	8. Hind Swarajya (a Gujarati book by M. K. Gandhi).
....	6. Universal Dawn (a book).	8. Universal Dawn (a book).	....	....	8. Universal Dawn (a book).	9. Universal Dawn (a book).	9. Universal Dawn (a book).	9. Universal Dawn (a book).	9. Universal Dawn (a book).
....	7. Mustafa Kamil Pasha's speech (a book).	9. Mustafa Kamil Pasha's speech (a book).	....	....	9. Mustafa Kamil Pasha's speech (a book).	10. Mustafa Kamil Pasha's speech (a book).	10. Mustafa Kamil Pasha's speech (a book).	10. Mustafa Kamil Pasha's speech (a book).	10. Mustafa Kamil Pasha's speech (a book).

APPENDIX A—contd.
Statement of publications proscribed in each province under the Indian Press Act, 1910—contd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
	8. The Defence of Socrates: Story of a true warrior (a book).	10. The Defence of Socrates: Story of a true warrior (a book).	....	....	10. The Defence of Socrates: Story of a true warrior (a book).	11. The Defence of Socrates: Story of a true warrior (a book).	11. The Defence of Socrates: Story of a true warrior (a book).	11. The Defence of Socrates: Story of a true warrior (a book).	
	9. A photograph entitled "Vande Mataram."	11. A photograph entitled "Vande Mataram."	....	....	11. A photograph entitled "Vande Mataram."	12. A photograph entitled "Vande Mataram."	12. A photograph entitled "Vande Mataram."	12. A photograph entitled "Vande Mataram."	
	10. A photograph entitled "Aryamata."	12. A photograph entitled "Aryamata."	....	....	12. A photograph entitled "Aryamata."	13. A photograph entitled "Aryamata."	13. A photograph entitled "Aryamata."	13. A photograph entitled "Aryamata."	
	11. Gaelic American (a newspaper).	13. Gaelic American (a newspaper).	....	5. Gaelic American (a newspaper).	....	14. Gaelic American (a newspaper).	14. Gaelic American (a newspaper).	14. Gaelic American (a newspaper).	
	12. Indian Sociologist (a newspaper).	14. Indian Sociologist (a newspaper).	....	6. Indian Sociologist (a newspaper).	....	15. Indian Sociologist (a newspaper).	15. Indian Sociologist (a newspaper).	15. Indian Sociologist (a newspaper).	
	13. Justice (a newspaper).	15. Justice (a newspaper).	....	7. Justice (a newspaper).	....	16. Justice (a newspaper).	16. Justice (a newspaper).	16. Justice (a newspaper).	
	14. Bande Mataram (a newspaper of Geneva).	16. Bande Mataram (a newspaper of Geneva).	....	8. Bande Mataram (a newspaper of Geneva).	....	17. Bande Mataram (a newspaper of Geneva).	17. Bande Mataram (a newspaper of Geneva).	17. Bande Mataram (a newspaper of Geneva).	
	15. Satsang (a pamphlet published in Goa).	17. Satsang (a pamphlet published in Goa).	....	9. Satsang (a pamphlet published in Goa).	....	18. Satsang (a pamphlet published in Goa).	18. Satsang (a pamphlet published in Goa).	18. Satsang (a pamphlet published in Goa).	
	16. Swaraj (a magazine).	18. Swaraj (a magazine).	....	10. Swaraj (a magazine).	....	19. Swaraj (a magazine).	19. Swaraj (a magazine).	19. Swaraj (a magazine).	
	17. Circular of Freedom (a newspaper).	19. Circular of Freedom (a newspaper).	....	11. Circular of Freedom (a newspaper).	....	20. Circular of Freedom (a newspaper).	20. Circular of Freedom (a newspaper).	20. Circular of Freedom (a newspaper).	
	18. Free Hindustan (a newspaper).	20. Free Hindustan (a newspaper).	....	12. Free Hindustan (a newspaper).	....	21. Free Hindustan (a newspaper).	21. Free Hindustan (a newspaper).	21. Free Hindustan (a newspaper).	
	19. Khalasa or Khalsa (pamphlets).	21. Khalasa or Khalsa (pamphlets).	....	13. Khalasa or Khalsa (pamphlets).	....	22. Khalasa or Khalsa (pamphlets).	22. Khalasa or Khalsa (pamphlets).	22. Khalasa or Khalsa (pamphlets).	
	20. Jugantar (a Bengali leaflet).	22. Jugantar (a Bengali leaflet).	....	14. Jugantar (a Bengali leaflet).	....	23. Jugantar (a Bengali leaflet).	23. Jugantar (a Bengali leaflet).	23. Jugantar (a Bengali leaflet).	

21. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	....	23. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	....	15. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	....	24. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	24. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	24. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.	24. All publications purporting to be published or issued by the "Free Hindustan" Publication Committee.
22. Mazzini's Autobiography, by V. D. Savarkar.	....	....	....	....	15. Mazzini's Autobiography, by V. D. Savarkar.	25. Mazzini's Autobiography, by V. D. Savarkar.	25. Mazzini's Autobiography, by V. D. Savarkar.	25. Mazzini's Autobiography, by V. D. Savarkar.	25. Mazzini's Autobiography, by V. D. Savarkar.
23. Ramdasibua (a pamphlet).	....	....	....	....	16. Ramdasibua (a pamphlet).	26. Ramdasibua (a pamphlet).	26. Ramdasibua (a pamphlet).	26. Ramdasibua (a pamphlet).	26. Ramdasibua (a pamphlet).
24. Mela songs by G. D. Savarkar.	....	....	....	....	17. Mela songs by G. D. Savarkar.	27. Mela songs by G. D. Savarkar.	27. Mela songs by G. D. Savarkar.	27. Mela songs by G. D. Savarkar.	27. Mela songs by G. D. Savarkar.
25. Bando Mataram (a leaflet).	....	....	....	....	....	28. Bando Mataram (a leaflet).	28. Bando Mataram (a leaflet).	28. Bando Mataram (a leaflet).	....
26. Speeches of Tilak and Paranjpe by D. S. Valve.	....	....	....	....	18. Speeches of Tilak and Paranjpe by D. S. Valve.	29. Speeches of Tilak and Paranjpe by D. S. Valve.	29. Speeches of Tilak and Paranjpe by D. S. Valve.	29. Speeches of Tilak and Paranjpe by D. S. Valve.	28. Speeches of Tilak and Paranjpe by D. S. Valve.
27. Swadeshi Hal Chal ya Muhaban Vatan, Srijut Tilak ja Raya (a Sindhi-Arabic book).	....	....	....	....	19. Swadeshi Hal Chal ya Muhaban Vatan, Srijut Tilak ja Raya (a Sindhi-Arabic book).	30. Swadeshi Hal Chal ya Muhaban Vatan, Srijut Tilak ja Raya (a Sindhi-Arabic book).	30. Swadeshi Hal Chal ya Muhaban Vatan, Srijut Tilak ja Raya (a Sindhi-Arabic book).	30. Swadeshi Hal Chal ya Muhaban Vatan, Srijut Tilak ja Raya (a Sindhi-Arabic book).	29. Swadeshi Hal Chal ya Muhaban Vatan, Srijut Tilak ja Raya (a Sindhi-Arabic book).
28. Vijaya Torana (a play).	....	....	....	....	20. Vijaya Torana (a play).	31. Vijaya Torana (a play).	31. Vijaya Torana (a play).	31. Vijaya Torana (a play).	31. Vijaya Torana (a play).
29. Kichak Vadh (a play).	....	....	....	....	21. Kichak Vadh (a play).	32. Kichak Vadh (a play).	32. Kichak Vadh (a play).	32. Kichak Vadh (a play).	31. Kichak Vadh (a play).
30. Shri Krishna Shish-thai (a play).	....	....	....	....	22. Shri Krishna Shish-thai (a play).	33. Shri Krishna Shish-thai (a play).	33. Shri Krishna Shish-thai (a play).	33. Shri Krishna Shish-thai (a play).	32. Shri Krishna Shish-thai (a play).
31. "O Martyrs" (a leaflet).	....	....	....	....	23. "O Martyrs" (a leaflet).	34. "O Martyrs" (a leaflet).	34. "O Martyrs" (a leaflet).	34. "O Martyrs" (a leaflet).	33. "O Martyrs" (a leaflet).
32. "Challenge statement" (a leaflet).	....	....	....	....	24. "Challenge statement" (a leaflet).	35. "Challenge statement" (a leaflet).	35. "Challenge statement" (a leaflet).	35. "Challenge statement" (a leaflet).	34. "Challenge statement" (a leaflet).
33. Any volume of Chiplunkar's Niband-mala containing the essay "The State of our Country."	....	....	....	....	25. Any volume of Chiplunkar's Niband-mala containing the essay "The State of our Country."	36. Any volume of Chiplunkar's Niband-mala containing the essay "The State of our Country."	36. Any volume of Chiplunkar's Niband-mala containing the essay "The State of our Country."	36. Any volume of Chiplunkar's Niband-mala containing the essay "The State of our Country."	35. Any volume of Chiplunkar's Niband-mala containing the essay "The State of our Country."
34. "Story of my Deportation," by L. B. Bhopatkar.	....	....	....	....	26. "Story of my Deportation," by L. B. Bhopatkar.	37. "Story of my Deportation," by L. B. Bhopatkar.	37. "Story of my Deportation," by L. B. Bhopatkar.	37. "Story of my Deportation," by L. B. Bhopatkar.	36. "Story of my Deportation," by L. B. Bhopatkar.

APPENDIX A—contd.
Statement of publications proscribed in each province under the Indian Press Act, 1910—contd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Province.	Coorg.
	35. Photographs of Nationalists by S. D. Mohansingh.	....	....	....	27. Photographs of Nationalists by S. D. Mohansingh.	33. Photographs of Nationalists by S. D. Mohansingh.	38. Photographs of Nationalists by S. D. Mohansingh.	37. Photographs of Nationalists by S. D. Mohansingh.	
	36. "Humanity Love Fund" (a leaflet).	....	....	....	28. "Humanity Love Fund" (a leaflet).	39. "Humanity Love Fund" (a leaflet).	39. "Humanity Love Fund" (a leaflet).	38. "Humanity Love Fund" (a leaflet).	
	37. "Pictorial India of To-day" by H. R. Bhagvat.	....	....	....	29. "Pictorial India of To-day" by H. R. Bhagvat.	40. "Pictorial India of To-day" by H. R. Bhagvat.	40. "Pictorial India of To-day" by H. R. Bhagvat.	39. "Pictorial India of To-day" by H. R. Bhagvat.	
	38. Tilak's speeches by H. R. Bhagvat.	....	....	....	30. Tilak's speeches by H. R. Bhagvat.	41. Tilak's speeches by H. R. Bhagvat.	41. Tilak's speeches by H. R. Bhagvat.	40. Tilak's speeches by H. R. Bhagvat.	
					31. Om Bande Mataram (a leaflet).	....	42. Om Bande Mataram (a leaflet).	41. Om Bande Mataram (a leaflet).	
		24. Om Bande Mataram (a leaflet).	11. Om Bande Mataram (a leaflet).	....	32. Sophia Begum (a book).	42. Sophia Begum (a book).	43. Sophia Begum (a book).	42. Sophia Begum (a book).	
		25. Sophia Begum (a book).	....	....	33. Sipahi Judder Itihas (a book).	43. Sipahi Judder Itihas (a book).	44. Sipahi Judder Itihas (a book).	43. Sipahi Judder Itihas (a book).	
		26. Sipahi Judder Itihas (a book).	....	....	34. Asha Kuhakini (a book).	44. Asha Kuhakini (a book).	45. Asha Kuhakini (a book).	44. Asha Kuhakini (a book).	
		27. Asha Kuhakini (a book).	....	....	35. Jugantar Jai Bande Mataram (a leaflet).	45. Jugantar Jai Bande Mataram (a leaflet).	46. Jugantar Jai Bande Mataram (a leaflet).	45. Jugantar Jai Bande Mataram (a leaflet).	
		28. Jugantar Jai Bande Mataram (a leaflet).	....	....	36. Marna bhala hai (a Gurmukhi leaflet).	46. Marna bhala hai (a Gurmukhi leaflet).	47. Marna bhala hai (a Gurmukhi leaflet).	46. Marna bhala hai (a Gurmukhi leaflet).	
		29. Marna bhala hai (a Gurmukhi leaflet).	....	16. Marna bhala hai (a Gurmukhi leaflet).	37. Bartaman Rananiti (a book).	47. Bartaman Rananiti (a book).	48. Bartaman Rananiti (a book).	47. Bartaman Rananiti (a book).	
		30. Bartaman Rananiti (a book).	....	....	38. Swadhin Bharat (a pamphlet).	48. Swadhin Bharat (a pamphlet).	49. Swadhin Bharat (a pamphlet).	48. Swadhin Bharat (a pamphlet).	
		....	12. Swadhin Bharat	....	39. The Liberator (a newspaper).	49. The Liberator (a newspaper).	50. The Liberator (a newspaper).	49. The Liberator (a newspaper).	
		....	13. The Liberator (a newspaper).	....	40. Hatya Noy Jagna (a leaflet).	50. Hatya Noy Jagna (a leaflet).	51. Hatya Noy Jagna (a leaflet).	50. Hatya Noy Jagna (a leaflet).	

31. Dhotis having the poem "Farewell Mother" on the borders.	....	....	....	....	51. Dhotis having the poem "Farewell Mother" on the borders.
32. "Kumar Singh" (a pamphlet).	....	15. "Kumar Singh" (a pamphlet).	17. "Kumar Singh" (a pamphlet).	41. Shahdin Bharat (a pamphlet).	52. Shahdin Bharat (a pamphlet).
33. The Talvar—an organ of Indian Independence of 20th February 1910.	....	16. The Talvar—an organ of Indian Independence of 20th February 1910.	....	42. "Kumar Singh" (a pamphlet).	53. Kumar Singh (a pamphlet).
34. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	17. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	43. The Talvar—an organ of Indian Independence of 20th February 1910.	54. The Talvar—an organ of Indian Independence of 20th February 1910.
35. "Halat-i-Shahid aur Sanyasi ki awaz" (a pamphlet).	....	18. "Halat-i-Shahid aur Sanyasi ki awaz" (a pamphlet).	....	44. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	55. The Talvar—an organ of Indian Independence of 20th February 1910.
36. "Hindustan ki halat mazia" (a pamphlet).	....	19. "Hindustan ki halat mazia" (a pamphlet).	....	45. "Halat-i-Shahid aur Sanyasi ki awaz" (a pamphlet).	56. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).
37. "Mukti Mantra" (a Bengali leaflet).	....	....	....	46. "Hindustan ki halat mazia" (a pamphlet).	57. "Halat-i-Shahid aur Sanyasi ki awaz" (a pamphlet).
38. "Om Bande Mataram Swadhin Bharat."	....	....	....	47. "Mukti Mantra" (a Bengali leaflet).	58. "Hindustan ki halat mazia" (a pamphlet).
39. Bande Mataram of 1910.	....	20. "Free Hindustan" of March-April 1910.	....	48. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	59. "Mukti Mantra" (a Bengali leaflet).
40. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	21. Indian Sociologist for March 1910.	....	49. "Ekashlokigita" (a book).	60. "Free Hindustan" of March-April 1910.
41. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	22. Bande Mataram of 1910.	....	50. Indian Sociologist for March 1910.	61. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).
42. "Ekashlokigita" (a book).	....	....	....	51. Indian Sociologist for March 1910.	62. "Ekashlokigita" (a book).
43. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	52. Indian Sociologist for March 1910.	63. Indian Sociologist for March 1910.
44. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	53. Indian Sociologist for March 1910.	64. Indian Sociologist for March 1910.
45. "Ekashlokigita" (a book).	....	....	....	54. Indian Sociologist for March 1910.	65. Indian Sociologist for March 1910.
46. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	55. Indian Sociologist for March 1910.	66. Indian Sociologist for March 1910.
47. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	56. Indian Sociologist for March 1910.	67. Indian Sociologist for March 1910.
48. "Ekashlokigita" (a book).	....	....	....	57. Indian Sociologist for March 1910.	68. Indian Sociologist for March 1910.
49. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	58. Indian Sociologist for March 1910.	69. Indian Sociologist for March 1910.
50. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	59. Indian Sociologist for March 1910.	70. Indian Sociologist for March 1910.
51. "Ekashlokigita" (a book).	....	....	....	60. Indian Sociologist for March 1910.	71. Indian Sociologist for March 1910.
52. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	61. Indian Sociologist for March 1910.	72. Indian Sociologist for March 1910.
53. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	62. Indian Sociologist for March 1910.	73. Indian Sociologist for March 1910.
54. "Ekashlokigita" (a book).	....	....	....	63. Indian Sociologist for March 1910.	74. Indian Sociologist for March 1910.
55. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	64. Indian Sociologist for March 1910.	75. Indian Sociologist for March 1910.
56. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).				65. Indian Sociologist for March 1910.	76. Indian Sociologist for March 1910.
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58. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).				67. Indian Sociologist for March 1910.	78. Indian Sociologist for March 1910.
59. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	68. Indian Sociologist for March 1910.	79. Indian Sociologist for March 1910.
60. "Ekashlokigita" (a book).	....	....	....	69. Indian Sociologist for March 1910.	80. Indian Sociologist for March 1910.
61. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	70. Indian Sociologist for March 1910.	81. Indian Sociologist for March 1910.
62. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	71. Indian Sociologist for March 1910.	82. Indian Sociologist for March 1910.
63. "Ekashlokigita" (a book).	....	....	....	72. Indian Sociologist for March 1910.	83. Indian Sociologist for March 1910.
64. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	73. Indian Sociologist for March 1910.	84. Indian Sociologist for March 1910.
65. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	74. Indian Sociologist for March 1910.	85. Indian Sociologist for March 1910.
66. "Ekashlokigita" (a book).	....	....	....	75. Indian Sociologist for March 1910.	86. Indian Sociologist for March 1910.
67. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	76. Indian Sociologist for March 1910.	87. Indian Sociologist for March 1910.
68. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	77. Indian Sociologist for March 1910.	88. Indian Sociologist for March 1910.
69. "Ekashlokigita" (a book).	....	....	....	78. Indian Sociologist for March 1910.	89. Indian Sociologist for March 1910.
70. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	79. Indian Sociologist for March 1910.	90. Indian Sociologist for March 1910.
71. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	80. Indian Sociologist for March 1910.	91. Indian Sociologist for March 1910.
72. "Ekashlokigita" (a book).	....	....	....	81. Indian Sociologist for March 1910.	92. Indian Sociologist for March 1910.
73. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).				82. Indian Sociologist for March 1910.	93. Indian Sociologist for March 1910.
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75. "Ekashlokigita" (a book).				84. Indian Sociologist for March 1910.	95. Indian Sociologist for March 1910.
76. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).				85. Indian Sociologist for March 1910.	96. Indian Sociologist for March 1910.
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78. "Ekashlokigita" (a book).				87. Indian Sociologist for March 1910.	98. Indian Sociologist for March 1910.
79. "Methods of the Indian Police in the 20th century" (a pamphlet by Mr. Mackarness).	....	....	....	88. Indian Sociologist for March 1910.	99. Indian Sociologist for March 1910.
80. "Social Conquest of the Hindu race" (a leaflet by Har Dayal).	....	....	....	89. Indian Sociologist for March 1910.	100. Indian Sociologist for March 1910.

APPENDIX A—concl'd.
Statement of publications proscribed in each province under the Indian Press Act, 1910—concl'd.

1	2	3	4	5	6	7	8	9	10
Madras.	Bombay.	Bengal.	United Provinces.	Punjab.	Burma.	Eastern Bengal and Assam.	Central Provinces.	North-West Frontier Provinces.	Coorg.
.....	.....	59. "Holo ki" (a Bengali book).	.....	.....	52. "Holo ki" (a Bengali book).	59. "Holo ki" (a Bengali book).	.....	.....	.....
Jugantar (of Delhi) of 1st Magh 1316.	.....	.....	.....	.....	.....	60. Jugantar (of Delhi) of 1st Magh 1316.	.....	.....	.....
.....	43. "Victory of Tilak" (a Marathi book).	.....	.....	.....	.....	.....	.....	.....	.....
.....	44. "Navin Tilakancha Perada" (a Marathi pamphlet).	.....	.....	.....	.....	.....	.....	.....	.....
.....	45. "Tilak Git" (a Marathi pamphlet).	.....	.....	.....	.....	.....	.....	.....	.....
.....	46. Gujarati translation of B. C. Pal's speeches.	.....	.....	.....	.....	.....	.....	.....	.....
.....	47. "Drauni Mani Haran" (a Marathi play).	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	23. Picture by Sridhar Waman Nagarkar.	.....	.....	.....	.....	.....	.....
.....	.....	41. "Jugantar, fourth year 1317" (a leaflet).	.....	.....	.....	61. "Jugantar, fourth year 1317" (a leaflet).	.....	.....	.....

APPENDIX B.*

Return showing the instances in which the Prevention of Seditious Meetings Act has been put into operation since November 1907.

1. *Act extended to Provinces under section 1 (2) :—*

Eastern Bengal and Assam	...	...	1st November 1907.
Madras	...	...	} 13th January 1910.
Bombay	...	...	
Bengal	...	...	
United Provinces	...	...	
Punjab	...	...	
Central Provinces including Berar	...	...	

2. *Districts notified to be proclaimed areas under section 2 (1) :—*

Bakarganj	...	...	{ 7th November 1907.
			{ 14th March 1910.
Mymensingh	...	...	... 14th March 1910.
Faridpur	...	...	... 14th March 1910.
Rohtak	...	...	... 13th June 1910.

3. *Public meetings prohibited in proclaimed areas under section 5 :—*

Patuakhali (Bakarganj)	...	...	... 19th March 1910.
Tangail (Mymensingh). Two meetings			{ 19th March 1910.
			{ 29th March 1910.
Pangsa (Faridpur)	...	...	... 19th March 1910.

* *Vide* pages 7 and 13.



The Gazette of India.

PUBLISHED BY AUTHORITY.

SIMLA, SATURDAY, AUGUST 20, 1910.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART VI.

Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED
FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE
PROVISIONS OF THE INDIAN COUNCILS ACTS, 1861 to 1909
(24 & 25 VICT., CAP. 67, 55 & 56 VICT., CAP. 14,
AND 9 EDW. VII, CAP. 4).

The Council met at Viceregal Lodge, Simla, on Saturday, the 6th August 1910.

PRESENT:

His Excellency THE EARL OF MINTO, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy
and Governor General of India, *presiding*,

and 35 Members, of whom 28 were additional Members.

CONTINUING BILL.

The Hon'ble MR. JENKINS said:—"My Lord, the Seditious Meetings Act of 1907 will expire in ordinary course on the 31st October this year, and the course which we should take with regard to it has been a matter of anxious consideration. I will briefly explain the reasons which have induced us to come to the decision, first of all that the Act should be continued, and secondly that it ought not now to be continued beyond the 31st March 1911. Before the Bill was prepared, Local Governments were consulted, and the Local Governments are generally independent in their opinions. One of the great difficulties which the Government of India generally experience when Local Governments are

consulted is in reconciling the differences of advice given by them. On this occasion the Local Governments are absolutely unanimous; and especially the Lieutenant-Governors of Bengal and Eastern Bengal, who declared that the continuance of the Act is absolutely necessary to the preservation of law and order in their Provinces. Now, we have no intention of sheltering ourselves behind the Local Governments. The decision is ours; it is based upon our own convictions of what is necessary in the conditions of the time. At the same time the Government of India would be incurring very grave responsibility if they refused to accept the recommendations of the Local Governments in a matter of this kind. For my own part, I am free to admit that when a Lieutenant-Governor like Sir Edward Baker, of wide and liberal sympathies, who knows his Province thoroughly, declares that the continuance of this Act is absolutely necessary in Bengal, I should feel myself bound to surrender my opinion to his, even if my own opinion were different; and we have decided therefore that the Act should be continued. Next, as to the date to which it should be continued. There is a precept of old standing which directs that contentious business should not be taken up in Simla, and we have reason to apprehend that this is a contentious measure. That precept was issued when Simla was remote and inaccessible; conditions have changed greatly; the stress of business has become very considerable; and it is possible that the position may have to be reconsidered. Nevertheless, as long as the precept is in force, we feel ourselves bound to observe it as far as possible. There is another consideration which has weighed with us; there will before long be very great changes in the constitution of the Government of India, and although the life of the Government is continuous, we think it proper that the ultimate decision in this matter should rest with the Government of India as it will be constituted at the session which will be held at Calcutta. We are by no means pledged to continue this measure beyond the 31st March 1911. On the other hand, neither are we pledged to allow the Act to lapse. I consider that it is greatly to be desired that this Bill should be regarded as a measure of convenience, as an *ad interim* measure intended to bridge over the time between the Simla session and the session in Calcutta, and that no discussion should be raised which will have the effect of even appearing to commit the Government of India or individual Members of Government to any opinion relative to the further continuance of the Act. If it is finally decided that the Act ought to be continued, there will be ample opportunity for discussion in Calcutta. If, on the other hand, it is decided that it ought to be allowed to lapse, we shall have escaped a debate which, however carefully conducted, cannot fail to do a certain amount of harm. My Lord, I now introduce the Bill to provide for the continuance of the Prevention of Seditious Meetings Act, 1907, and move that it be taken into consideration."

The motion was put and agreed to.

The Hon'ble MR. GOKHALE said:—"My Lord, this Bill may at first sight appear to some to be a comparatively modest measure, inasmuch as all that it ostensibly seeks to do is to prolong by just five months more the life of an Act which in the natural course of things would expire on 1st November next. And the very brief speech with which the Hon'ble Member has introduced his motion to-day is calculated to lend support to this view. Now, my Lord, if this had been really all that the Government had in view—even then, I should have deplored the action of Government, for, as I understand the situation, what the country taken as a whole needs to-day above every thing else is the opportunity for things quietly to settle down again to the normal; and, in providing this opportunity, responsibility rests as much on the Government as on the people. And in my humble judgment, a proposal at a time like the present to renew even for a few months a repressive measure of such exceptional severity as the Seditious Meetings Prevention Act, when the country is comparatively quiet and is getting quieter every day, is not likely to hasten that return to a normal frame of mind on the part of the people and that restoration of normal relations between the people and the Government which every true well-wisher of the country must so ardently desire. But, my Lord, I do not think that this Bill is merely a proposal to continue an expiring

Act for a few months longer, and nothing more. I think there are grave reasons to fear that it is rather intended to be the prelude to another proposal to place the Act permanently on the Statute-book after the formality of a discussion in full Council at Calcutta next March. It seems clear to me that if the Government had been anxious to govern the country without the aid of this Act—if even they had wanted to find out if they could so govern it—they would have welcomed the opportunity, instead of regretting it, of the Act lapsing next November, conscious of the fact that, if the necessity arose, they could re-enact the measure in a single day, and re-enact it probably with the support of a strong body of public opinion. The Statement of Objects and Reasons says that 'on the unanimous advice of Local Governments the Government of India are convinced that the continuance of the Act for the present is essential to the preservation of the peace,' and therefore they are continuing it for five months. I am not surprised, my Lord, taking human nature as it is, that the Local Governments want to retain the powers which the Act confers upon them. That does not by any means show that the condition of the country is such that the Local Governments should have those powers. What is there, for instance, to-day in the condition of the Madras Presidency that should make the Government of Madras wish to have these powers? And yet we find Madras anxious along with the other Local Governments to retain these powers! It is therefore only ordinary human nature, and I do not think that we need attach any special importance to it. I wish, however, that the Council had had an opportunity of seeing those opinions of Local Governments. In the case of ordinary Bills such opinions are as a rule supplied to Members. I asked for these papers two days ago under rule 13 of the Rules for the conduct of legislative business, but the Government have not seen their way to comply with my request. But whatever be the grounds on which the Local Governments have based their advice, one thing is certain, that if they have asked for a continuance of the Act, they cannot have asked for its continuance for five months only; no one could, I think, calculate the requirements even of repression with such nicety! It is true that when the question comes up again for consideration, the personnel of the Government of India will have undergone a considerable change. But I do not think it is possible to find any comfort in that. In the first place, a Viceroy entirely new to the country is far less likely to take a line of his own in dealing with what we have been told is the unanimous opinion of Provincial Governments than one who has been five years in the country; and secondly, we have already before us the fact that, though not one of Your Lordship's colleagues of 1907 in the Government of India is to-day a member of the Government—a fact which significantly illustrates the rapidity and completeness with which the personnel of the Government changes in this country under the existing system—that has not made any difference as regards the present decision to continue the Act after October next. I take it therefore that during the next Calcutta session the Government will come forward again with a proposal either to further extend the period of the Act or, what is even more probable, to place the Act permanently on the Statute-book. Now, my Lord, we all know that when once the Government have made up their mind to adopt a particular course, nothing that the non-official Members may afterwards say in Council is practically of any avail in bringing about a change in that course. Our only hope of preventing a decision which we consider to be fraught with serious injury to the best interests of the country is in any opportunity we may get to state our objections before the decision has been arrived at. And it is because the Bill before us gives us such an opportunity, as also because I am against the proposed continuance of the Act even for five months, that I deem it my duty to offer what resistance I can to the motion which the Hon'ble Member has just submitted to the Council.

"My Lord, three years ago, when this Act was hurried through the Council at this hill station, only three non-official Members were able to attend the meeting. But among those there was my distinguished friend, the profoundly learned and ever-brilliant Dr. Rash Behary Ghose. To the criticism which he then offered on the various provisions of the measure, I think it is unnecessary

to add anything even to-day. The Act admittedly confers dangerously wide powers on the Executive, which, if used at all, are almost certain to be abused, and which must in practice paralyse all activity in the country. Meanwhile the Government already possess in the ordinary law of the land ample powers to meet all reasonable requirements, not only for punishing but also for preventing what has been called seditious or dangerous oratory. Under the Criminal Procedure Code the Government can break up, and even prohibit, meetings likely to prove dangerous to the tranquillity of the country, and they can bind down individuals. And the provisions for punishing seditious utterances do not certainly err on the side of leniency. I really do not see what more is wanted if the Government are to show a reasonable regard for the elementary rights of the people. Unless the idea is that nowhere in the country shall there be any deliberation or discussion or expression of opinion except on lines approved by the Government, and that too with their previous permission, I do not understand the necessity of arming the Executive with the vast powers which the Act confers. That these powers can be and as a matter of fact have been used, or rather abused, for such a purpose may be seen from the fact that this year three ordinary district conferences in East Bengal were prohibited by the District Magistrates. My Lord, I listened carefully to the answer which the Hon'ble Mr. Earle gave yesterday to a question of my friend the Hon'ble Babu Bhupendra Nath Basu on this subject. In spite of that answer, I feel bound to say that, in my opinion, the action of the authorities was not justified; and I hold that the prohibition of the conferences was a serious abuse of the powers which the Act confers upon the Executive. Such conferences have been held for years past, not only in Bengal but all over the country. They are strictly on constitutional lines, and so far they have nowhere given rise to any trouble whatever. The Hon'ble Mr. Earle in his reply said that the prohibited conferences proposed to deal with subjects which did not concern the districts only. Now I would like to know what right or authority the Hon'ble Member had to lay down a proposition like that. A district is part of a Province; it is also a part of the whole country; surely the people of a district, if the Government are willing to allow them even a small amount of patriotism or public spirit, are entitled to take an interest in the affairs of their Province and their country; and I say it is absurd to insist that a district conference should confine itself only to matters that concern that district. But, my Lord, it was not only these district conferences that were thus interfered with. In one of the districts, a meeting proposed to be held by members of the depressed classes for the discussion of a social grievance was also disallowed. I understand that these classes in Eastern Bengal have some difficulty in obtaining the services of barbers, and these people wanted to hold a meeting and consider what arrangements they could make for getting themselves shaved. Surely that was not a subject in regard to which the powers conferred by the Act should have been exercised by the district authorities! And yet this was actually done under this Act. I understand that this prohibition was afterwards withdrawn. But that it should ever have been exercised shows the liability to grave abuse of these powers. In some places the District Magistrate went the length of claiming the power to determine the actual wording of the resolutions proposed to be passed at public meetings! Such a claim reduces a public meeting to a mockery and a farce, for the resolutions then express the views not of the people assembled in the meetings but of the district authorities! My Lord, I am quite prepared to admit that circumstances may arise when even such drastic powers as the Act confers may be necessary in order to stem the flood of wild, irresponsible oratory dangerous to public peace. But I do not think that such circumstances exist at the present moment anywhere in India.

"My Lord, I can conceive of circumstances in which it may be necessary to put even such powers into the hands of the Executive as the only way of checking the flood of wild and dangerous utterances that may be threatening the peace or tranquillity of the country. But I do not think such circumstances exist in any Province at the present moment. And, in any case, it is to my mind intolerable that the whole country should be indiscriminately placed under such Draconian legislation. And this brings me to a suggestion which I made in

the Council three years ago, when the Seditious Meetings Act was under discussion, and which I wish to repeat to-day, namely, that if at any time such legislation is found to be necessary in any Province it should be undertaken by the Provincial Government in the Council of that Province, and not by the Government of India for the whole country. At present what happens is this. The alleged needs of the Province whose condition is the worst furnish the standard and determine the character of the legislation with which not only that Province but the rest of the country is to be saddled. Now, this is gravely objectionable, and to my mind it constitutes a most serious grievance. A simple remedy lies ready to hand, namely, to require each Provincial Council to undertake in such matters its own special legislation according to its needs. This will have the additional advantage of ensuring a full discussion of the condition of the Province before the legislation is passed. I claim on this subject the support of the Hon'ble Member whom we in Bombay have known to be a strong advocate of Provincial decentralization. It may be said, as Sir Harvey Adamson did three years ago, that, though such legislation may be passed for the whole country, it may not be extended to a Province without a careful consideration of all its circumstances by the Government of India. How illusory this safeguard is was seen last January, when we woke up one morning to find that the Seditious Meetings Act had been extended indiscriminately to every Province by a single stroke of the pen. My Lord, I assure the Council that there is a very real fear in the minds of even the most thoroughly law-abiding citizens that this Act, when put in force, places them in a position of serious danger, and they further feel that they may be exposed to the danger any moment without their having done anything to deserve it. A few utterances on the part of thoughtless young men or even a single utterance of that character may suffice for a whole district being suddenly proclaimed, and once it is so proclaimed every inhabitant of that district is at once put under what may be termed 'police rule.' No twenty persons can then meet even for the most innocent social purpose without being presumed to have gathered in a public meeting held without the permission of the authorities, and anyone may at any moment find himself accused of having taken part in such a meeting and wrongly punished or otherwise harassed in a variety of ways. And with the kind of the police we have in this country the fear of wanton or malicious harassment is not wholly imaginary. My Lord, I am aware that the question of the character of the Indian police has now assumed a form when it is difficult to discuss it without rousing a certain amount of feeling. There is no doubt, however, that as a class the police are not trusted by the bulk of my countrymen, and that innocent people often go about in dread of what they may do, and the position has grown worse since the formation of what is known as the Criminal Investigation Department. This is largely the result of two causes—first, the quality of the material from which our police-force is drawn; and secondly, the lack of a spirit of self-assertion among the people generally. The Government no doubt have of late done a good deal to secure a better type of recruits for the force, but the improvement in this respect can only be gradual. Moreover, as long as the people themselves do not know how to take better care of themselves as against the police, things are bound to continue pretty much the same as they are at present. What is absolutely necessary, however, is that the Government should not put additional powers into the hands of the police until a substantial improvement has taken place in their character and traditions. My Lord, it has been well said that more depends upon the manner in which a law is administered than upon the law itself. This is true of every law generally, but it applies, I think, in a special degree to repressive measures, and I feel bound to say that our experience in this direction has not been particularly encouraging. Take for instance, the Press Act of last February. If ever there was a measure which should have been administered with the utmost care and tact and restraint, it was the Press Act passed last session at Calcutta. This was necessary to avoid all needless irritation. It was also due to those non-official Members of this Council who, in their desire not to add to the difficulties and anxieties with which the Government were then confronted, tried to go as

far as they could in support of the measure. I grieve to say, however, that in most Provinces these obvious considerations have not been kept in view in working the Act. I will not now refer to those cases in which security was demanded from old concerns when they presented themselves for a mere formal change in their registration, in spite of distinct pledges to the contrary given both in the Statement of Objects and Reasons and in the speeches of Members of Government in this Council. It was no doubt the result of what must be regarded as defective drafting, and I am glad to note that it has now been set right to a great extent by executive action on the part of Government. But there have been cases in which heavy securities have been demanded from old concerns without specifying what their offence was, and for some time past a regular sedition-hunt has been going on in some of the Provinces. Hardly a day now passes without some obscure sheet or pamphlet or old book being dragged forth from oblivion, and notified first by one Provincial Government and then by another as forfeit to the authorities. Now much of this is, to my mind, altogether futile, and it only tends to keep the Press Act in unnecessary and unpleasant prominence before the country. I think the exceptional powers conferred by the Press Act should be very sparingly drawn upon, and then, too, to meet only serious cases of objectionable and dangerous writing. I do not deny that the Act has exercised a restraining influence in some quarters where such influence was most necessary. But as against this we must place the irritation that is being continuously caused in the country owing to the feeling that the Act is being harshly or unjustly applied. The worst case in which the powers of the Act have been clearly misapplied is, to my mind, that of Mr. Mackerness's pamphlet. Mr. Mackerness had sent me a copy when the pamphlet was issued, and I had also seen the articles as they had at first appeared in the *Nation*. I can understand the objection that Mr. Mackerness had made a one-sided presentment of the case, or that he had not done justice to the efforts which the Government have recently been making in the matter of police reform, but that only means that someone else should have published a pamphlet in reply. Had anybody told me before the pamphlet was proscribed that the Government contemplated applying the provisions of the Press Act to it, I should have declined to believe the statement. And now that the pamphlet has actually been proscribed, I can only regard the action taken with deep humiliation and pain.

"My Lord, it will, I am convinced, be a grave blunder to place the Seditious Meetings Act permanently on the Statute-book or to propose a further lease of life to it after March next, and I earnestly implore the Government to abandon the idea if they have it. In 1907, when the Act was first passed, there was this to be said in its favour, that the situation in the country was daily growing more and more anxious and no one knew where things stood or whither they were drifting. We were then moving on the upward grade of our troubles and the outlook was dark and threatening. To-day, however, the situation is far different. The air has been largely cleared, there is a much easier feeling throughout the country, and there is no doubt that the country is now on the downward grade of its anxieties. The change has principally resulted from two causes—first, the Reform Scheme in its final form, which despite obvious imperfections constitutes an important step forward for my countrymen, has eased in no small measure the tension of the situation; and secondly, the criminal excesses of thoughtless young men have shocked the bulk of the people into a greater realization of their own duty to the cause of law and order. I think, my Lord, it is now daily becoming more and more clear that the wild elements which by their reckless careering have been a source of so much anxiety, have now well nigh exhausted themselves, and the return of the country to a normal state of things is therefore now only a question of time; and nothing, I respectfully urge, should be done by the Government which will in any way retard this return. Not the heavy hand of coercion, but the gentle touch of conciliation and sympathy, of forbearance and oblivion—this is what the situation requires; and I earnestly trust these healing influences will be forthcoming in ample measure to obliterate bitter memories and start the country again on a career of prosperity and progress."

The Hon'ble NAWAB ABDUL MAJID said:—"My Lord, notwithstanding all that has been said by the Hon'ble gentleman who has just spoken, I am one who thinks that the Bill for the continuance of the prevention of Seditious Meetings Act should be passed into law. The object of the said Act, when it was passed in 1907, was to prevent public meetings which were likely to promote sedition or to cause a disturbance of public tranquillity. Now it cannot be denied that the Act had a salutary effect in preventing such meetings. Those orations and addresses which were likely to cause disaffection and to disseminate sedition were checked; while meetings and speeches which had no aim but peace and public good of the country were nowhere stopped. The very provision in the said Act, that the Act was to apply to a proclaimed area, shews that the Act was not to be applied at random or at the mere wish of any officer. The Act was to apply only when an area was proclaimed by the Local Government. It is obvious, my Lord, that no Local Government will proclaim or has proclaimed an area unless after full inquiry and information it came to the conclusion that public good and security of the country demanded an area to be so proclaimed and the Act to be applied. Further, we have a provision in the Act that any notification proclaiming any area was to remain in force for six months. In other words, the people of such a proclaimed area were given an opportunity to reform themselves. If their behaviour were good, then the notification had no effect after six months. My Lord, I reiterate these facts to shew that the Act does not affect those who are peacefully and loyally disposed, but it affects those only who have a guilty intention.

"But, my Lord, it is said that the Act, when it was passed in 1907, was for three years only, and there is no occasion for its continuance now. To decide this question it is necessary to compare the situation in the country in 1907 with that prevailing in 1910. If there is no unrest in the country, if there is a guarantee that no disaffection and no feeling of disloyalty will be spread in the country if the Act were repealed, I for one, my Lord, will at once give my opinion for the repeal of the Act. But can it be said that there is no unrest in the country? Is there a guarantee that public meetings held and public speeches delivered by those who are not well-disposed will not be used as instruments for the spread of the propaganda of evil ideas among the people at large? Restrictions such as the Act provides are checks on the facilities for the spread of such ideas. Remove them, my Lord, and you will find platform orators delivering their noxious sentiments to the people again. My Lord, I think that the state of the country is not such that any safeguards which are for the peace and tranquillity of the country may be removed. It is not more than six months now that we in this Council passed the Press Act, and why? Because the situation demanded it. The Press Act was passed to check the spread of anarchical and rebellious ideas among the people through the medium of the Press, just as the Seditious Meetings Act was passed to prevent those very ideas reaching the people through the instrumentality of public meetings and public addresses. My Lord, both stand on the same footing. If the Press Act was justified then, why is not the continuation of the Seditious Meetings Act justifiable also? The situation in the country in last February was well summed up by the learned the Hon'ble Mr. Gokhale when he said in his eloquent speech on that occasion:—

'It is not merely the assassinations that have taken place, or the conspiracies that have come to light, or the political dacoities that are being committed, that fill me with anxiety. The air in many places is still thick with ideas that are undoubtedly antagonistic to the unquestioned continuance of British rule, with which our hopes of a peaceful evolution are bound up; and this is a feature of the situation quite as serious as anything else.'

"My Lord, has the situation so eloquently and concisely described by the Hon'ble Member ceased to exist or not? I say not. Assassinations of the same atrocious nature we may not have, but dacoities and conspiracies cannot be said to have ceased yet. It was only the other day that *Yuguntar* leaflets were detected. Dacoities have taken place. Suspects said to be members of the terrorist society are still prowling about. I say therefore that the situation existing in February has not changed for the better.

"I say that the country is not in a fit condition to dispense with the safeguards provided to stop the spread of sedition and anarchy in this country.

"But assuming that the situation has improved in the country, assuming that the people have realized their position and responsibilities, and that the evil-doers have given up their evil intentions, the question arises, why is it so? Could not such results be traced to such preventive measures as the Seditious Meetings Act and the Press Act? In other words, such measures have proved successful, and the success gained by them is a very strong reason by itself that such measures should be continued. My Lord, whichever side of the question one may look to, I think in my humble opinion measures which have the effect of preventing masses and youths of the country from falling into the pernicious influence of those who want to disturb the peace and good government of the country must remain on the Statute-book. My Lord, I vote for the passing of the Bill into law."

The Hon'ble KUNWAR SIR RANBIR SINGH said:—"My Lord, it is with reluctance as well as with pleasure that we have met here to-day to discuss the advisability of continuance of the Act for the prevention of holding seditious meetings in India—reluctance because such a necessity should ever have arisen in India where sedition was unknown and where loyalty and absolute submission to the throne was the watch-word of every human being; pleasure because it places the civilised and loyal subjects of the British Government out of the reach of the professional agitator and safeguards the interests of the law-abiding people. As has already been explained by the Hon'ble Member in charge of the Bill, certain circumstances in the year 1907 obliged the Government of India to enforce such an Act in the country. Its continuance up to the 31st March next is now advised by Local Governments and considered necessary in the interests of the people.

"I strongly support the Act of the Government in this respect and am confident that my Hon'ble colleagues will join with me in the belief that the prevention of seditious meetings is called for in the interest of the people of India. This is not the time to discuss at any length the harmful consequences of such meetings in the country. I therefore close my remarks with the hope that the continuance of the Act will be agreed to by all Hon'ble Members."

The Hon'ble RAO BAHADUR R. N. MUDHOLKAR: "My Lord, I regard with great regret and disappointment the resolve of Government to bring forward this measure and to obtain its enactment. When the last session terminated without the introduction of a measure to continue the Act of 1907, and when there was nothing said in this Council to give an indication that Government contemplated taking any action in the matter, and especially when we found no announcements made of any legislation in that direction, there was a general feeling of relief and satisfaction in the country.

"My Lord, I most heartily and earnestly wish that Government had allowed that Act to expire by efflux of time and had not taken any steps for the introduction of this Bill. My Lord, I am not behind anyone in this hall, or out of it, in my anxiety to secure the cause of peace and order and law, and I fully recognize that they ought to be maintained above all things. I fully agree with what has been said by my Hon'ble friend the Nawab Sahib here, and my Hon'ble friend the Kour Sahib here, about the necessity of putting down seditious meetings by taking stern measures against all things calculated to disturb public tranquillity. My Lord, we fully recognise that there are occasions when summary powers ought to be given to the executive authorities of prohibiting all meetings likely to promote sedition or likely to bring about a disturbance of the peace. My Lord, what we contend is this, that the ordinary law which exists in the country is quite capable and adequate for this purpose. My Lord, it was pointed out in the debates which took place in 1907 that the Criminal Procedure Code and other general Acts were fully capable of ensuring that tranquillity without which society cannot exist. We have first of all that very powerful section (section 144 of the Criminal Procedure Code) by which

a District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate, or any Magistrate authorised either by the Local Government or a District Magistrate or Chief Presidency Magistrate can stop and prohibit any meeting which is likely to bring about a disturbance of the public peace and to result in a riot or affray. The order can be passed *ex parte*, cannot be appealed against and is capable of remaining in force for two months *proprio vigore*; and, with the sanction of the Local Government, its period can be extended indefinitely, or it might even be made permanent. My Lord, this is a powerful section.

"We have then Chapter IX of the Criminal Procedure Code, sections 127 to 132, under which any Magistrate or any officer in charge of a police-station may command an unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse. If they do not disperse the whole lot of them can be taken into custody and marched off to jail, and if the police are not sufficient to cope with a large assembly they can call upon private citizens to help them in their apprehension. If civil force is found not adequate, the Magistrate can requisition the military. My Lord, this is a very ample provision. There are certain Police Acts like the Bombay City Police Act, the Calcutta Police Act, the Calcutta Suburban Police Act, in which power is given to the Commissioner of Police to prevent harangues and prohibit meetings likely to endanger peace or cause contempt of lawful authority. There are then the sections in Chapter VIII, Criminal Procedure Code, which enable Magistrates to take substantial security from propagators of sedition and breakers of peace. My Lord, these are provisions which quite enable Government to preserve order and peace and obedience to law. My Lord, I would beg Your Lordship and this Council to take into consideration just for themselves whether this law has not, as a matter of fact, been found quite sufficient for the purposes of the country. This Act, which was passed in 1907, was preceded by an Ordinance in certain Provinces. We shall omit the Ordinance period, but this Act has been in force for two years and nine months, and during that period there has been no occasion whatsoever in which the Act was required to be put into operation anywhere except in four districts. Throughout the rest of the country the Act, as it were, was merely nominally in existence. It was a dead-letter; and yet, my Lord, the year 1907, as also the year 1908, were years of considerable anxiety, of very great tension and difficulty. And yet the Government and the people have been able to tide over that difficult time without resorting to the armoury supplied by the Act. My Lord, I can speak with considerable knowledge of a Province which was not free from this kind of trouble. We had not in that Province the same tension and the same difficulties that, for instance, existed in 1907 in Eastern Bengal, and exist to some extent there even now. We had nothing of the kind that existed in the Punjab towards the beginning of 1907, but there was a considerable effervescence of what may be considered as undesirable agitation in which advocates of *swarajya* and boycott held forth to large meetings attended by thousands. My Lord, all that has stopped. Both the Central Provinces and Berar are now as quiet as they were previous to 1903 or 1905. Not only that, there are no meetings even for legitimate objects held which are attended by any large section of the public. Now this change, or call it improvement—I am one of those who call it improvement, because undesirable agitation is not good for any one—this improvement, my Lord, has been effected without this Act being drawn upon. In fact, the notification putting the Act into operation was not issued for the Central Provinces till January 1910. There was only one occasion on which the Local Government thought it might be desirable to have the Act put in operation in the Central Provinces; but the Government of India at that time had left Simla and had not assembled in Calcutta, and the head of the Administration then took counsel and he found that the existing law was quite capable of achieving the object which he wanted. There was an assemblage convened to meet at Christmas, which was considered, by the authorities responsible for good government, undesirable, and they wanted to prohibit it. The thing was done by asking the District Magistrate of Nagpur to issue a notice under section 144 of the Code of Criminal Procedure, and the meeting was prohibited.

"My Lord, there have been certain associations not considered very desirable; these associations have been wound up. There have been institutions which, with proper reason, were considered as more or less suspicious. All these institutions have been closed. All this, my Lord, has been achieved by a few prosecutions instituted under sections 124-A and 153-A of the Indian Penal Code, first of all, by some use, and that not on a very large scale, of the security sections of the Code of Criminal Procedure, and more than all this by the tactful and firm conduct of a police-officer of high standing, who I am glad to see enjoys the confidence of Government and who is present in this hall. My Lord, he knew what was the real significance of the situation; he had moved amongst the people; he had spoken to those whom his information led him to suppose were mixed up with these matters, and his method was to use tact, logic and a firm hand; and with these three weapons, my Lord, we have a restoration of the normal state of things in those Provinces. My Lord, if these methods have succeeded in a Province in which there was considerable agitation of an undesirable kind, and if we find that in other Provinces there has been a return—I shall not say in regard to everything, but in regard to what may be considered the bulk of the people, who were carried away by the visionary doctrines of these people—to a normal state of things without this Act being put into operation, my Lord, the whole case for the Act has been taken away. It proves that the ordinary law is quite capable of preserving the interests of good government and peace and that this measure is utterly unnecessary.

"My Lord, if this Act was directed only against seditious meetings, and if in terms it had referred to meetings which are likely to produce a disturbance of the public tranquillity, or meetings in which seditious language is believed to be likely to be employed, then those who are against this Bill might have seen their way to accord it their support. But, my Lord, the most offensive part of the Act is the total prohibition of all political meetings without a police permit. My Lord, this is undesirable even in the interests of good government, and it is undesirable from the Government point of view. If noxious doctrines are to be properly exposed, if undesirable propaganda are to be exposed in their true colours, this can be done only by a free opportunity being given to those who can explain the true methods to be followed and the true doctrines to be adopted. But, my Lord, those who would hold these meetings also stand in the same position practically as the advocates of *swaraj*. I do not know, if I called a meeting of that kind, a police-officer may not come and show his attentions to me. My Hon'ble friend Mr. Gokhale has spoken of the attentions shown to him. I believe he does not stand single in that; I have also to say the same thing of myself. I was going to Madras for a conference, which His Excellency the Governor of the place was going to attend; I was asked to take the chair on that occasion, and all the way from Berar to Madras I was followed by an inspector of police. My Lord, this is the way in which the police work, and if persons whom Government have been pleased to honour, persons whom the Government are pleased to consult on different occasions, if they are so suspect by the ordinary police sub-inspector, what can be the position of those who do not occupy the same position?

"My Lord, we feel that this law is a slur as much upon the Government as upon us. It proclaims to the world that the British Government in India does not like political meetings, and is afraid of having any discussion on any political question. My Lord, as a matter of fact, the Government has not done this, but unfortunately they have allowed to remain on the Statute-book a law which lends colour to this misapprehension. Is that fair to the Government? Is it just to the Government? It creates irritation in the minds of the people, and it raises an altogether wrong impression about the temper and attitude of the Government of India towards the population. The law is practically a dead-letter; it has not been put in force, and for aught we know it might never be put in force; why then keep it at all on the Statute-book? And, as I have said, if there was the least danger of not maintaining peace and order without

such a law as that, then we would have been constrained to say yes, such a law should be kept. My Lord, I have, I believe, shown by testimony coming from official records that peace and order can be maintained without such a law, and I therefore submit with due deference, with the utmost respect, that Government were not well advised in asking for the introduction of this measure. My Lord, we have the authority of the Local Governments, but Local Governments have attributed, I am afraid, to this Act a potency which it is not entitled to. The change in the country, the effect which has been produced by various kinds of things, these have been attributed to this Act. My Lord, the improvement in the situation which is seen now is due, as I have said, partly to the enforcement of the ordinary law of the country, but more than that it has been due to the revulsion in the minds of the bulk of the community, and even of that small section of the educated community which was theoretically drawn to the foolish vapourings of certain persons; it has created a revulsion in the minds of these men even against the murderous proceedings of the school of anarchy, that has brought to the side of Government men who were lukewarm. The bulk of the people have been always loyal to Government, and with this revulsion the field for sedition has become very much curtailed. Another powerful influence which has been at work has been the policy of reform and conciliation which Your Lordship's Government has been able to put into operation.

"My Lord, these are the three things which have produced improvement in the present situation, and it is not this Act at all, which is practically a dead-letter, except in one district alone in Eastern Bengal. It has only been recently extended to the Punjab. My Lord, again the futility of such a measure is practically shown by the admission made by Sir Denzil Ibbetson in 1907. When the Act of 1907 was passed he said he did not see any necessity for extending that Act or rather for putting the Act into operation in the Punjab; the condition of the Punjab had quieted down. My Lord the excitement in 1907 was due to peculiar causes; that excitement has passed away. In the Punjab the excitement was due to well-grounded apprehensions entertained by the agriculturists about the effect of the Colonisation Act and the enhancement of the canal-dues. Immediately Your Lordship's Government vetoed that Act and the people were saved from the threatened enhancement, an improvement in the situation followed. Even in Eastern Bengal I do not think the condition is so bad as it was in 1907. The partition of Bengal was the chief grievance. But the extraordinary state of things which existed in 1907 was in no small measure due also to the temper and attitude of the Local Government at the time. With a change in the personnel, even in Eastern Bengal, a considerable improvement has followed.

"My Lord, I cannot shut my eyes to that gaunt spectre of political assassination which has appeared on the horizon and the conspiracies to subvert the British rule which have recently come to light. My Lord, I would ask Your Lordship and the Hon'ble Members to see whether these murderous deeds and these conspiracies can at all be prevented by an act of this kind. The murderers and conspirators do not hold public meetings and do not hold forth in public; they carry on their nefarious projects in secret conclave, and these deeds and these conspiracies cannot at all be reached by this Act. We are perfectly agreeable that the hands of Government should be strengthened, that the authority of the executive Government should be strengthened, for putting down sedition and putting down lawlessness and disorder. We ask over and over again for the Government to see whether our experience of recent years has not demonstrated that that course can be maintained with the existing law. My Lord, in that case there is no necessity for this thing which casts a slur both upon Government and the people. My Lord, the Government and people constitute one family. With our Hindu ideas we consider that the Government occupies the position of the father of the family. We do admit with great sorrow, with great humiliation, that there are some members of the family who have become wild, turbulent and exceedingly undutiful. My Lord, we appeal to you as head of the Government whether, for the faults of a practically microscopic minority, it would be just, it would be fair, it would be

politic, to treat all the members of the family equally, and to visit the anger upon all the members of the family. My Lord, Your Lordship's régime has been associated with reform and conciliation, and that same policy should, we humbly submit, be carried on even in regard to this Act."

The Hon'ble LIEUTENANT MALIK UMAR HAYAT KHAN said :—" My Lord, in my speech of the 30th of March last I drew the attention of the Council to the gravity of the present situation and urged the necessity of taking preventive measures to meet it. If I remember right, I had emphasised that point, and I am glad to find now that the Government has made some movement in the direction indicated by me by introducing this Bill.

"The measure is a most necessary one. But I am compelled to call attention to the undesirability of renewing the Act at frequent intervals. This causes unpleasant comment and arouses irritation, and in my opinion it is now time to place the Act permanently on the Statute-book. The law itself can harm no one and does not come into force unless a breach of it is committed. It will be seen that this Act is only applied to a few districts at present, and this is due to its having a great effect as a preventive measure.

"It is plain that extraordinary outbursts of crime require extraordinary remedies, and abnormal political agitation must be checked by abnormal measures. My Lord, I mean to direct my remarks mostly against the *anti-Government* class of agitators, and I hope my colleagues will not come forward to defend them.

"These meetings against which this Act is directed are of two different kinds :—*Firstly*, they take the form of ordinary gatherings or demonstrations in which no particular speeches are delivered. This form is objectionable because it excites the feelings of certain experienced youths and leads to trouble. *Secondly*, such meetings as are convened to hear the utterances of sharp platform speakers, who with full knowledge of the law use guarded words but manage to convey a meaning which produces undesirable effects on the mind of the public. Frequently enough their less clever followers when trying to reproduce the same ideas are unable to command the same moderated language, they let the 'cat out of the bag' and are caught.

"The consequences are of two sorts :—*Firstly*, if a speaker wants to produce a certain effect and uses guarded language so as to convey his views to his audience without getting into the clutches of the law, he can produce as bad an effect by his guarded words as by an openly seditious speech. *Secondly*, if he makes such a speech unaware of its consequences, though I am not prepared to believe that this can often happen, even then it is objectionable since it produces a bad effect. Some years back, when the Ordinance was not in force, it was noticed that there was a wave of revolt among the students in schools and colleges, a wave which spread from the eastern to western portion of India and was the direct result of such meetings and speeches. The consequence was the occurrence in the Punjab of a series of deplorable riots in certain towns though I am glad to remark that the predominant zamindar class was not much affected. I have said that this law will injure nobody. That is true. But of course it will be objectionable to a class of irresponsible people who have no standing of their own, and have no stake in the land, their only possession being the power of speech and their only ambition being to bring themselves into prominence by pretending to voice the opinions of their small communities and by claiming the right to set forth their own theories, which may be followed by their half-educated audience. They attempt to gain popularity by criticising in season and out of season every reasonable measure of the Government. My Lord, we hear many references made to history, to different nations, countries, times and circumstances, and also hear the quotations from the remarks of great men, which were made under particular circumstances, at particular times and for particular purposes, and thus these references and quotations cannot be applied here. It is said that history repeats itself, but I can positively say that properly speaking there have never been any two identical cases in the world, and when the causes are not exactly the same their effects cannot be possibly the same.

"I hope when the present measure is opposed with such unsound arguments they will not be considered of any substantial importance.

"I don't profess to say that Government has never made a mistake, but I do find it difficult to believe that these people can prove that everything which Government does is and must invariably be wrong.

"In fact, some people instead of using their discretion and judgment merely take up a line which will please their ignorant and inexperienced audience and thus try to gain authority as popular leaders.

"But, my Lord, what is the invariable result? They arouse disaffection, they stir up alien feelings, and in the trouble which follows who suffers? Not they themselves, but the ordinarily quiet and peace-loving subjects of His Majesty. It is these unfortunate and innocent people who pay the price of the agitation. The agitator, as we have seen from many recent cases, nearly always manages to escape, and those who preach sedition by speaking or writing, if punished at all, receive much milder punishment than the deluded youths whom they use as their tools.

"It is most desirable that this Act should continue in force without interruption until it finally becomes permanent law. Most of us here realise the necessity of this measure, but there are people here as well as in England who cannot negotiate the difference between a party system such as that in England where they have two parties of the same nation who both want to govern their own country to the best of their ability and only have minor differences of opinion, and the state of affairs in India where they have two entirely separate communities with extremely divergent ideas as to the right administration of the country. In the latter case there is something more than a mere difference of views, and no encouragement should be given to the people who make it their business to stir up opposition between the two classes. The people who get the chance of expressing an opinion on the administration of the country are:—*Firstly*, the graduates and others who complete their studies here or in England and who have from their childhood been occupied in the study of English literature, etc., in order to pass their examinations and have accordingly lost all touch with the actual state of affairs in India since they have never had the chance of coming into close contact with the real feelings of the people; *Secondly*, certain members of Parliament who have either never been to India or have only visited it for short periods, and have got into wrong hands and have thus been misled. The best proof of their being misled is the fact that they persistently oppose the sections of the loyal class and support that other class which, since it has sprung into prominence, has brought with it sedition and unrest, and whose very existence may to some extent be responsible for the cause of disaffection and discontent.

"These classes cannot be said to voice the feelings of the people at large who are politically contented and don't want to be tampered with.

"My Lord, if I be allowed to say so, no sufficient steps have so far been taken to discourage the class I have referred to. The law is capable of the most useful effects, but it can only be really useful if properly applied.

"It is no use to prohibit small meetings of no great significance and leave untouched those which are the real curse of the country. We might as well try to kill an enemy by bruising his leg or cutting his little finger. To do so is only to exasperate him and to render him more dangerous. There is but one course before us—to go at the head and to sever it.

"Most dangerous of all in my opinion are these meetings which have been termed national or in which nationality is preached, and which delude many people into the idea that they comprise all India or are calculated to unite the diverse sections of the community into a nation that may resent being governed by another nation and may have a strained feeling against authority established by law and a fine administration the like of which India has never had before.

"My Lord, I have made these remarks as I consider it my duty to speak the plain truth. I want to be heard here and also to be overheard in England. I am well aware that my opinions will appear distasteful to certain so-called leaders and orators of some sections and they may try to contradict my views; but truth is great and it will prevail.

"Having had my chance of speaking I think I may be unable to answer the criticisms which may follow my remarks, but I hope there may be Members of my opinion who may answer the critics. My Lord, there is a class in India waiting to see what the Government will do: we expect action, and a firm and resolute one, to stamp out sedition and disaffection from the country. Let Government take decisive steps and all the best elements in India are with it.

"My Lord, I should like to remark at the end, as I had done once before that whenever there is a great opposition, the public generally think that the opposing party is in the right and the Government won't listen to their arguments, and this idea creates a bad effect; but I hope this time they will also see that we, the supporters of the Bill, also represent big classes, and they will form a conclusion after judging the whole debate and not any particular speech of a favourite speaker and will also bear in mind that if we had known that the measure was unnecessary and the Government was wrong we would have been the foremost to oppose it.

"My Lord, with these remarks I strongly support the measure."

The Hon'ble MR. MADGE said:—"My Lord, the limits which have been suggested by the Hon'ble mover of this Bill for the range of our present discussion, with reference to the issues that ought to be raised here, have been so freely transgressed by almost every speaker that I hope I shall not be held to have disregarded the suggestion made if I echo the hope that has been already expressed that, not only will this Bill be passed, but that it will not be very long before the provisions which it extends find their proper and permanent place in the criminal law of the country. Before I give my reasons for this hope, which I shall do very briefly, I should like to say, no doubt to the great astonishment of my Hon'ble friend Mr. Mudholkar, that I share in the disappointment that has been so strongly expressed by him. But the sources of our disappointment are as poles asunder. If I am disappointed, my Lord, it is because the eloquent speakers who have already addressed you have not been careful to trace the relations of cause and effect between this Bill and the Press Act in respect of their influence upon the seditious spirit that was spreading throughout the country. It is all very well to say that the suppression of that spirit is attributable to the ordinary law of the land. I respectfully submit that it is nothing of the sort; and that a Government which came before the people with both its hands full of concessions would not have passed such a law as this if the ordinary law of the land had sufficed to suppress anarchy and sedition. It is because the ordinary law of the land entirely failed that the Government was forced into this position. And to anybody who stands up here and says that this is going too far, and that it is irritating, and all that sort of thing, I wish to say as gently and as respectfully and in as friendly a way as possible that you are like a physician who takes up a dangerous case, who finds that his diagnosis is correct, that his treatment is effective, that the promise of it is not small, and who finds that he is soon arriving at success, but who suddenly stops short and says, 'not because I have failed but because I have succeeded, I shall shut up'. To me action of that sort appears to be wholly unreasonable. If this measure, or rather the combined action of them both, has succeeded in suppressing the evil spirit that was spreading, through the Province to which I belong all over the country, I think the Government is acting with wise prudence, in the interests of the people more than in its own interests, in bringing in legislation of this sort, the effect of which appears to me to be wholesome. It has been said that the powers that are to be entrusted to the Executive are dangerous. But they do not strike me as being more dangerous than the powers that are entrusted to a successful surgeon. The lancet is a

very dangerous thing ; but when employed in skilful hands, it secures life oftener than it produces death ; and I have had no reason from the Government's action to suspect either its skilfulness or its gentleness. I am not a blind advocate of the Government at all. I have watched its proceedings for some time past with great care, and I have had no reason from any of its actions to suspect either its skilfulness or its gentleness. Indeed, my Lord, I may say from what I have heard down below of the temperament of the Government, that so far from being thought at all unreasonable and cruel, its action has sometimes been thought to be sentimentally weak. I do not here endorse that sentiment ; but I only repeat it here for the purpose of balancing the remarks that have already been made. And now, if I may be allowed in a few words to give my reasons for the hope that I have expressed : they are briefly these. Crime is crime, whatever you may say about it. The differentiations of crime are of degree and not of kind. All law more or less desires to protect society and the public peace, and the breach of any law tends both to the disruption of the public peace and the breaking up of all the best interests of society. It has been said that the murderous hand of the assassin is not the result of public proceedings. I take occasion to deny the accuracy of that remark in the most emphatic manner. The hand of the assassin is often moved by speeches full of *double entendre*. I have made it my business to study some of them. I happen to understand the languages of the country, not perhaps as well as every Indian, but better than most Europeans. I have detected the *double entendre* of many insinuations that have been publicly made with such carefulness as to guard the speaker but to send fire into the hearts of susceptible people. My Lord, that is a public proceeding one end of which may be out of sight but the other end of which is exposed to everybody. Remarks have been made about the action of the police whom it is no business of mine to defend. I have studied the police systems of several countries in the world, and I think it may be laid down generally that the average morality of the police, with a few exaggerations one way or the other, is the morality of the country to which they belong. I do not make this remark offensively, but as a fact of sociology which must be impressed upon the conscience of everybody who observes and thinks. Very well, my Lord, if that is the case, I wish next to refer to some remarks that have been made about patriotism. I think true patriotism ought to be directed, not so exclusively to political advancement, as towards raising the moral tone of the people. I speak as a member of a very small community which is flanked on all sides, and I make it my business to abuse their vices privately but to defend their virtues as much as possible in public. I think that is the right attitude for most people who wish to act as patriots to take ; and I think that if the great talent and the great energy that have been displayed by so many political speakers had been directed to wiser channels, there is 'a stream of tendencies, not of ourselves, making for righteousness', and if any man throws himself into that stream, he shall be allowed to do things for the uplifting of his people. I have found that in a very humble way and on a small scale, and if on the larger scale which is presented to my Indian friends, many of whom I love and respect exceedingly, they would take that line of action and raise the morale of the country and of its police, as it is open to them to do, I think very little complaint would remain about the conduct of the police. In conclusion, my Lord, I wish to say that I cannot understand on what sound principle of civilized jurisprudence there can be any advocacy of intermittent legislation against crime. If a law is good in itself, it ought to stand recorded always ; and I think much less irritation would be caused by the permanence of a law of that sort than by its being continually brought up before the Legislative Council."

The Hon'ble MR. SACHCHIDANANDA SINHA said:—"My Lord, on 1st November 1907—when the Seditious Meetings Act was under the consideration of this Council—the Hon'ble Sir Harvey Adamson, speaking with the authority of a Home Member, propounded a curious theory in regard to the presence of non-official Members of this Council at Simla on the occasions of debates on contentious measures like the one under discussion today. He said:—"If Indian Members considered the matter to be of vital importance, they

would no doubt have undertaken the journey which would have deposited them at the doors of the Council chamber. Their absence proves that either they approve of the Bill or at least do not so strongly disapprove of it as to consider their presence necessary'. I do not know, my Lord, if Sir Harvey's views are shared, to any extent, by the Hon'ble Mr. Jenkins, but lest my absence should give rise to any such unwarranted presumptions as those formulated by the late Home Member, I have deemed it to be my duty to come up here today, to be able to place before the Council the views of that important section of the people of the Lower Provinces whom I have the honour to represent in this Council.

"My Lord, there can be no two opinions that the measure under consideration is one of an exceptional character, and I submit that an extraordinary law, meant for special exigencies, should not be allowed to remain on the Statute-book when the circumstances that justified it no longer demand it. It cannot be doubted that the Seditious Meetings Act—the operation of which we are asked to renew today for a period of five months, after its becoming inoperative by efflux of time—is a measure of exceptional and extraordinary character, as it seriously curtails the liberty of public discussion and vests, in the hands of our police, powers of interference with the public, which, even when exercised with the greatest tact, are bound to produce irritation, annoyance and inconvenience. Under the Act as it stands, power is given to the police to interfere with all kinds of gatherings of twenty or more persons, whether they be in a public place or a private house. Religious and social gatherings are not excepted, so far as the powers of the police are concerned. It is obvious that such extensive, discretionary powers vested in a body of men like our police—of whom the most charitably-disposed persons cannot draw a flattering picture—can only result in constant conflicts between them and large and important sections of the people. And for one seditious meeting that the police may be able to suppress, acting under the powers conferred upon them by this Act, there are sure to be several instances when, owing to misdirected zeal on their part for ferretting out sedition, respectable and law-abiding subjects of His Majesty, the King-Emperor, are likely to be subjected to unnecessary and unjustifiable annoyances, in their efforts to carry on perfectly peaceful and legitimate, constitutional agitation for political reform and which we claim as one of the indefeasible and most cherished rights of all British subjects. Such, my Lord, has actually been the case in East Bengal, where conferences, as to the peaceful and constitutional character of which guarantees had been given by the organizers to the District-officers, were not allowed to be held.

"The Seditious Meetings Act was passed to put down—to quote the words of Sir Harvey Adamson—the 'acute disorder that prevailed in the Punjab and in Eastern Bengal', and it was admitted by the Government that it was 'a repressive measure of considerable potency'. The question, to my mind, is that, even assuming that such a measure was necessary at the time it was enacted, in the interests of law and order, whether the present situation is not so improved as no longer to require the continuance of the Act, which is a serious menace to the exercise on the part of the people of one of their most valued rights as British subjects, namely, the right of public association for purposes of free and open discussion of public questions on constitutional lines. Now, unless, my Lord, I have misappreciated the significance of the assurances given by Your Lordship on the occasion of inaugurating the last session in Calcutta of this Council, as also the statements made recently by the Under-Secretary of State for India in the House of Commons, it is clear that the situation in the country has materially improved of late, and if things are allowed to proceed as they are, without the application of fresh irritants in the shape of such legislation as the one before us today, the chances are that matters will take an even yet more favourable turn and the apprehension of any widespread or serious trouble, as the result of allowing liberty of public discussion, does not seem to me to be well-founded. The Punjab—one of the two unfortunate Provinces the state of affairs in which was made to justify this exceptional enactment at the time—has been, so far as I can see, quite tranquil,

and the better mind of East Bengal, on the occasions of the conferences which were unfortunately suppressed, gave evidence of a sincere desire to co-operate with the public authorities. As for the other Provinces—they have all been peaceful and quiet all these years, and even when this Act was passed no reference was made to their condition as justifying any such extraordinary legislation, in derogation of popular rights. I submit, therefore, my Lord, that the very special circumstances which might have justified so stringent and drastic a measure having fortunately very largely disappeared, there is no justification now for the Executive to ask the assistance of this Council to sanction the continuance of this 'repressive measure of considerable potency'. As a matter of fact there is ample provision made in the Code of Criminal Procedure, in section 144, for the suppression of mischievous or seditious public meetings, and it was while purporting to act under the terms of this section that the authorities at Barisal dispersed the session of, in my opinion, an innocent gathering, *viz.*, the Bengal Provincial Conference, in March 1907, months before the present Act was passed. I venture to say, therefore, that in section 144 of the Criminal Procedure Code, the executive authorities have vested in them ample powers for meeting all cases where public assemblies are likely to resort to mischievous or inflammatory propaganda.

"It is alleged in the Statement of Objects and Reasons of the present Bill that the Act 'where put into actual operation has been effective in stopping several meetings which, it was feared, if held, would have given rise to disturbances; and even where it has not been enforced its moral effect as a preventive measure has been invaluable.' Now, as to the first part of the allegation, I confess it is a mystery to me as to how it could have been known that meetings, which never were allowed to be held, could have resulted in disturbances. Possibly the alleged fact was ascertained through some occult process, unknown to the non-official Members and familiar only to our omniscient official colleagues. But in regard to the second part of the allegation, namely that the Act, even where it has not been enforced, has had 'invaluable moral effect' as a preventive measure, I think it my duty to inform the Council that in the Provinces of Behar and Agra and Oudh—with which I may claim to be in intimate touch—the only effect of the Act has been that of demoralising public life and practically paralysing all healthy and legitimate public activities. Its existence on the Statute-book and its subsequent extension in January last to all the Provinces which were till then exempt from its operation, has materially and seriously affected constitutional public work needing joint effort and co-operation, and, as such, it has been fruitful in engendering in the public mind a feeling of deep dissatisfaction amongst those who, during the recent period of storm and stress, tension and excitement, have been unswerving friends of law and order. That after the sincerely loyal support we have given to the Government in Behar and the United Provinces; and thus strengthened their hands in combatting undesirable and unhealthy unrest in some other parts of the country, we should find ourselves so distrusted as to be placed under the veritable sword of Damocles, in the shape of this frankly repressive legislation, has caused us, I beg to assure Your Lordship, the deepest humiliation as casting an unmerited stigma on our loyalty and on our unswerving adherence to peaceful, constitutional public work. What I have said above of the character of public work in Behar and the United Provinces will, I have no doubt, be endorsed by the Hon'ble Mr. Earle—who was our Commissioner at Patna till recently—and by the Hon'ble Mr. Meston, who, though he left the United Provinces of Agra and Oudh some years back, is nevertheless in close touch with the affairs of his old Province. If it be said, however, that it is impossible to make exceptions in a measure meant to affect the whole country, I submit that in matters of such legislation as the one before us today, it seems to me a wrong principle to proceed on the lines we are asked to do. It was pointed out by that great and distinguished jurist, Sir Henry Maine, that the true principle of Indian legislation should be to enact measures for particular tracts and Provinces and then to extend their operation to other parts of the country, in the light of the experience gained of their actual working in the smaller area. Whether

this principle be feasible or not in other departments of legislation, I venture to say that it is a most desirable course to follow in the matter of enacting repressive measures. Almost all our provinces are now supplied with the requisite machinery for legislation, in the shape of Provincial Councils, and I confess I cannot understand why it should not have been left open to the Provincial Governments to enact in their Councils such measures of exceptional legislation as may be required by the special exigencies and requirements of their territorial jurisdiction, in place of having an all-India measure like the one before us, which in its broad sweep grinds all—the guilty few and the innocent many.

“In conclusion, my Lord, I desire to express my view that in coming before the Legislature for assistance in enacting this measure, it was not right, it seems to me, for the Executive to rely only ‘on the unanimous advice of Local Governments’. Far be it from me to say one word in derogation of the value or importance of the opinions of our Local Governments, but nevertheless the fact remains that to accept the views of the Local Governments only and to act upon them is to proceed upon purely *ex parte* lines. Surely, my Lord, there are other people to be considered, other interests to be taken into account—the interests, views and opinions of the great educated Indian community—great not necessarily in numbers but in their influence and importance—whose healthy public activities are seriously menaced and jeopardised by this measure. I fear I cannot honestly say that the Government have considered the question—as they should have done—from *our* standpoint, the standpoint of the people. If they had done so, I am sure they would not have felt so ‘convinced’, as they are alleged to be in the Statement of Objects and Reasons, as to the continuance of the Act. That the Local Governments should have recommended the continuance of a measure which offers them the shortest cut to the accomplishment of what they desire is what we can all understand, but that the Government of India should have failed to weigh the *pros* and *cons* of the question, from the popular standpoint, is something which I can not but sincerely regret. I fear that the continuance of this Act will act as an irritant instead of an emollient, and that it is likely to engender discontent where it does not at present exist, and I cannot, therefore, see my way to give my support to the proposal before the Council.”

The Hon'ble BABU BHUPENDRA NATH BASU: “My Lord, I must say that I rise to speak in this Council with a feeling of considerable diffidence. My Lord, I do not conceal from myself that I exhibit in my person all the defects of the race from which I come. I am a Bengali of Bengalis, and I have taken a very prominent and active part in opposing that measure which Bengal has taken so deeply to heart. Therefore, my Lord, in addressing this assembly I have to combat some amount of prejudice at least against me personally. But laying aside those personal considerations which I appeal to this Council to do, they may for the moment forget and treat me not as a Bengali but as the advocate of the cause which I am trying to place before this Council on this occasion, I shall venture to place my views on the proposed legislation of to-day. My Lord, having regard to the statement made by the Hon'ble Mr. Jenkins that this Bill is intended for a period of five months only, and that the question as regards its renewal is as yet undecided, I probably should have seen my way not to enter into a detailed examination of the merits of the measure before us. But, my Lord, I feel a sort of strong presentiment which I cannot, I honestly say, resist, that what is sought to be continued to-day may soon be made permanent. If, my Lord, with Your Lordship's experience of five years' administration in India we have been unable to give the quietus to this measure of 1907, it is hardly to be expected that a Viceroy who will be new to the conditions of India with an Executive Council which also has been recently recruited will be able to withstand the pressure of the Local Governments and to resist this measure being put permanently on the statute book. My Lord, a question has been asked in this Council as well as outside: do the circumstances of to-day resemble those which led to the introduction of this measure in 1907? That is a question to which a frank, a decisive, a clear and an exhaustive answer was expected. If it is the fact, my Lord, that there is

no intention of renewing this Act after five months are over, then probably no answer was needed; but having regard to the absence of a declaration to that effect, I should have expected—the public in India expected—that there should have been an exhaustive statement of the grounds which led the Government to continue or to renew this measure. My Lord, it is never pleasant to go back to the history of old times in connection with repressive legislation. My Lord, if it were open to me, if I thought it was necessary, I could place before this Council facts and circumstances which were deemed sufficient by Government to justify the passing of the Act in 1907—facts and circumstances which, if properly stated, would put a very different complexion upon the responsibility of the parties concerned in the passing of that measure. But, my Lord, since I came to this meeting I have decided not to rake up old memories. I shall assume for the purposes of my argument—it is not necessary to go further—I shall assume for the purposes of my argument that a state of things did exist, whoever may have been responsible, in 1907 which justified the passing of this measure. I shall fully place myself, if it is possible for a humble citizen to do so, in the position of the Executive Government in 1907. We feel, all the members of the public appreciate, the difficulties, and, my Lord, we also appreciated the studied moderation of the speeches which Sir Harvey Adamson made on that occasion in this assembly. My Lord, as I have said, I shall assume that conditions existed which necessitated the passing of this measure in 1907.

“My Lord, does not the question strike one that before reproducing or continuing this measure there should be an inquiry as to whether the circumstances of to-day are similar to the circumstances of 1907? That is a most necessary inquiry in this matter. My friend, the Hon’ble Mr. Madge, has been pleased to give *carte blanche* to Government in passing any criminal law which it likes if it thinks it is for the benefit of the community which it governs. I do not dissent from that proposition, but I shall show later on what is the objection of the people to the Government passing a measure of criminal law, in which it places itself in the position of a judge of its own action. I do not think my friend, the Hon’ble Mr. Madge, will for a moment defend the Lynch Law of America, where an infuriated populace seeks speedy justice against an offender and where no form of trial is gone through or allowed to be gone through. Nor do I think, if he had carefully considered that prospect, he would lay down the proposition that the Government is at liberty to pass any measure such as that before us to-day, and to constitute itself sole judge in carrying that measure through in practice.”

The Hon’ble MR. MADGE : “I did not say so, my Lord.”

The Hon’ble BABU BHUPENDRA NATH BASU : “That is the effect of the legislation which we are considering to-day, and that, my Lord, is our chief ground for opposition to the measure.

“My Lord, since 1907 the atmosphere has been considerably cleared. We hope and trust that the murderous conspiracies which had blackened the good name of our country, which had made us hang down our heads in shame and humiliation, have been hunted down and thoroughly extirpated. My Lord, the whole moral sense of the community has been roused against the perpetrators of crimes like these. There unhappily—I say so with shame and sorrow—has arisen in Bengal a new class of crimes. We have seen recently young men and boys of respectable families taking to dacoities which are considered in many instances to be political. My Lord, nothing more cowardly can be conceived than the making of raids upon defenceless homes; than the torturing of innocent women and children and aged householders in order to make them divulge their hoards, their ornaments and their jewellery.

“My Lord, I belong to the middle classes of Bengal, classes which have been honourably known from time immemorial for their strict adherence to the principles of morality and religion; and I say, my Lord, that I have no words to express how deeply I feel the sense of shame and sorrow for the conduct of these young men. If it were possible to lay bare my heart-strings to this

assembly, they would see upon them the impress of the deepest humiliation. But, though I frankly confess that these crimes, which have tarnished the fair fame of the province from which I come, must be suppressed, I respectfully venture to join issue with Your Lordship's Government as to whether the means that you are adopting to-day is the best means, or in any way a desirable means, by which this form of crime can be suppressed. My Lord, does anybody really think that crimes like these or crimes which were unhappily the result of the insane band of conspirators who assembled at Manicktolla, are perpetrated on house-tops or in the bazars of India for the people to see and hear? Would the suppression of public meetings in any way conduce to the suppression of this class of crimes? I do not think, my Lord, that this Act would have that effect. Then, my Lord, when introducing this measure into the Supreme Council, Sir Harvey Adamson was pleased to complain of the want of co-operation with the police of the loyal and law-abiding portion of the Indian community. My Lord, people in India often wonder how our rulers spending a lifetime in India manage to remain so ignorant of the real state of affairs in the country and the people they are sent out to govern. I am afraid that this feeling of wonder is not wholly justified. From the very nature of things those who come out here to govern, though they live in India, mostly live a life apart from the Indian. My Lord, if Sir Harvey Adamson had ever occasion to be cited as a witness in a criminal case—to dance attendance on the inquiring or trying Magistrate from day to day and from place to place, to enter into recognizance bonds for due appearance, to be harassed by the police if his statements did not bear out their theory, to be sometimes browbeaten by the Magistrate who was imperfectly acquainted with his language and seldom aware of his position in life, to neglect his field if he was an agriculturist, to neglect his work if he was a labourer, to neglect his business if he was a professional man, and not to be paid anything for all this trouble, for all this annoyance, then I am sure he would not have made the observation that he made on that occasion. No one rejoices more than his many friends in Bengal at the well-deserved promotion which has been bestowed upon Sir Harvey Adamson; but I may take the liberty to say that if it were possible for Sir Harvey Adamson as a private citizen in Burma to start a criminal case—to institute a case when he next loses a coat or a ring—and after he has done so I would ask him his opinion about co-operation with the police. But, my Lord, apart from this, before we have recourse to a repressive measure described by Sir Harvey Adamson as one of 'considerable potency', is it not fair to us, the Indian communities, to consider whether the existing law is sufficient or not for the purpose for which is sought to be attained by this legislation? My Lord, there are two stages in dealing with crime: first of all the preventive stage, and then the punitive stage. Let us see, my Lord, what are the powers that the Executive possesses under the preventive provisions of the ordinary criminal law. I shall not go into details which can only interest a lawyer, but I shall take the broader features of the case. There are provisions in the criminal law by which a Magistrate may bind down any obnoxious person to keep the peace or be of good behaviour. My Lord, recently, while considering the provisions of the Press Act, my Hon'ble friend, the Law Member, with his usual ability, pointed out that those provisions were of no avail; that the writer of a seditious pamphlet might be bound down to keep the peace and be of good behaviour, but at the very next moment he would set up some other person through whom he would spread his poison. That may be or may not be so; but, my Lord, in the case of seditious speeches I do not think my learned friend would suggest that it is possible for a seditious speaker to speak through a dummy. My Lord, all the effect of the speech depends upon the personality of the man; it is his voice, it is his magnetism, which move audiences, and *benami* speeches will have no effect in spreading sedition or poison. Then, my Lord, my friend was pleased to say that, in undertaking cases for prosecution, Government had to allow a large margin. I may point out to my friend that these are safeguards which the law and the wisdom of ages have provided for the safety of the citizen. The laws provide that in matters of sedition, where the action of Government is challenged, Government should not act in a hurry. My

Lord, I do not wish to labour that point, but I have said, and I wish to repeat it with some degree of assurance, that the preventive powers given to Magistrates under the present law are sufficient. Added to those which I have already placed before this Council are the powers which have been referred to by some previous speakers of stopping meetings under section 144 of the Criminal Procedure Code. Everybody knows here that those provisions—the provisions of section 144—have been liberally exercised in the past, sometimes, alas, punctuated by regulation *lathis* as in Barisal. My Lord, meetings have been stopped which were considered by only those who were not in touch with the public to contain in them elements of disorder and sedition. I may instance as an example that the great commemoration meeting which was intended to be held in Calcutta on the Partition Day in 1908 was stopped under this very section on the eve of its being held. The orders issued at about 4 o'clock, when nearly 50,000 men had assembled to hold the meeting, and after the orders were promulgated all this vast crowd quietly dispersed. So also meetings in various other places in Bengal and East Bengal have been stopped under section 144. What more then is wanted?

“ I have dealt with the preventive provisions of the Act of the ordinary criminal law as it now stands. I will now proceed, my Lord, to another branch of my argument—the punitive provisions. I do not think that the most reactionary member of any Government in India would for a moment deny that the punitive provisions which the Penal Code lays down are sufficiently hard. My Lord, the lot of the political offender in India is different from that of a political offender probably in any other civilised country. He is treated as an ordinary felon; he is set to do hard work which to him, unaccustomed as he is to this work, is much harder than the work allotted to the ordinary criminal drawn from the criminal classes of India. He is sometimes flogged, and it has not been unknown that he has been dragged in chains through crowded streets. I suppose, my Lord, that this mode of punishment is resorted to to humiliate the man in public esteem. My Lord, from Your Lordship's place in Council may I appeal to those who inflict punishments like these to consider as to whether heavy punishments do not sometimes, do not oftentimes, make men overlook the heinousness of the offence and rouse the sympathy of the populace towards the unhappy offenders. And if, my Lord, it is not a profanation in this assembly to refer to the incident, they should not forget that One, whom the larger part of the civilised world adores today, was made to carry His own cross through the streets of Jerusalem.

“ My Lord, I have ventured to labour the point that the preventive and the punitive provisions of the law are quite sufficient: to ordinary men they would appear to be more than sufficient. Why then have recourse to exceptional and dangerous legislation? That the legislation is exceptional has been admitted by the Government itself; that it is dangerous will probably also be admitted. I take the opportunity of quoting from one of the recognised writers in England on subjects dealing with the political administration of the country. I shall not quote from German or French or Italian authors, but I will quote from an Englishman of undisputed authority. Mr. Sidgwick says:—

‘ It is an important practical security for freedom of political utterance that man shall not be prevented from writing and publishing what he likes by any interference before the act, of an executive official—but only restrained by the dread of punishment. It is indeed indispensable to maintain this security if we are to get the advantage of free criticism of the acts of the executive; since the question, whether such criticism has kept within the legal limits laid down for it, is too delicate a one to be left to the judgment of the persons criticised.’

“ My Lord, if a provision like this—if a law like this—is considered dangerous in European countries, where at least they have a homogeneous Government, it is much more dangerous under the system of Government under which we live. My Lord, we have our ruling class mostly recruited from outside and for a considerable time necessarily ignorant of the feelings, the sentiments, the habits, the usages and the customs of the people they are called upon to govern. In the meantime they have got to gather their knowledge from sources available to them. I will not repeat the commonplace of sitting on the safety

valve. The Government of India is too firmly established to care that 'sedition should be driven underground'. My Lord, that may be so, but is it too much to say that the heart-beat of the nation can only be audible to Government through the mouth of its public speakers? And is it proper, is it necessary, that this channel of information should be closed? My Lord, that I am not speaking as a mere theorist, that I am not speaking as a mere idealist, as a mere sentimentalist, as one who is bound to oppose the Government in season and out of season, I say, my Lord, for the delectation of my friend, the Hon'ble Malik Umar Hyat Tiwana, that on many occasions I have manfully supported the Government notwithstanding the severe disapprobation of my own countrymen where I have felt it right to do so. I say so not as a mere theorist. I appeal to the experience of Hon'ble Members here as to what has been the effect of the recent legislation regarding the Press and the platform in Bengal. Notwithstanding the high authority of Sir Edward Baker, I may be permitted to speak with some degree of knowledge. In Bengal public meetings have ceased to be and the voice of the people has ceased to be heard, due to the fact that no body of men professing to represent the voice of the people would care to hold a public meeting with the sanction of the District Magistrate, with the names of the speakers approved, with the language of the resolutions to be passed settled, with the lines of the speeches to be made laid down. And do you think that if anybody could be found to hold such a meeting many people would care to attend it? And would such a meeting be helpful to Government? Would it be any index of the public sentiments in the country, or would it be merely a repetition of what the District Magistrate wants to be said? My Lord, let us take the case of newspapers. I am not a pressman myself, and Members of Council need not fear me as such; but I have been in close touch with many pressmen in my part of the country. I find, my Lord, that effective criticism of Government and of public measures has been stopped since the recent legislation; and papers, which were keen critics of public events, are now given to discussing affairs in Timbuctoo and in Kamtschatka, or discussing the agricultural conditions in Brazil or Mexico. That certainly is not a desirable state of things. My Lord, what is it that is wanted? Does the Executive—does Mr. Jenkins—want that we shall have a silent India, an India, so to say, in a deep swoon, an India where you do not feel the heart-beat, an India in which you do not feel the throbbing of the pulse, an India buried in some subterranean vault and seen only through the coloured slides of the Criminal Investigation Department? Is it wanted, my Lord, that the Government should live in some pleasance, secluded from public opinion and public view like Prince Siddharta, from whom it was sought to exclude a knowledge of the world until he became the Buddha? Or is it, my Lord, that the Government wants to be in touch with the people it governs through the Press and the platform which are the only channels open to them?

"My Lord, I have spoken with some degree of warmth. I belong to the tropics and the effects of the recent legislation have been too potent for me to keep silent. If the suppression of the Press and the platform could bring the millennium to India, I certainly would support it with my friends opposite. But, my Lord, Your Lordship should bear in mind that you cannot overtake the heels of time; you cannot harness the thoughts of men; you should bear in mind that you can no more suppress the surging forces rising around you than did the old English King suppress the swelling billows of the sea.

"My Lord, is it too late to appeal to Your Lordship's Government to follow the right path? Your Lordship has shown what the right path is. Your Lordship has inaugurated reforms which are destined at no distant date to bring about a better understanding between the people and their rulers. You have, my Lord, after the lapse of a century and a half, first made us realise that there is a knocking on the wall with which the bureaucracy has delighted to shut itself round. Why, my Lord, should not Your Lordship go on courageously on the path on which Your Lordship has set the journey? My Lord, why should we not trust to natural remedies; why have recourse to remedies of exceptional potency which may as well kill as cure, and which more often kill than cure?

"My Lord, I am coming to the end of my observations. I am speaking, as I frankly confessed, under a deep sense of despair—despair because, my Lord, I feel that whatever I may say the Bill will pass into law, and I feel, my Lord, that at no distant date what is sought to be continued to-day will be made permanent. My Lord, 'coming events cast their shadows before'. But, my Lord, I am not absolutely without hope. I feel, I believe, my Lord,

'that good shall fall,

At last—far off—at last to all,

And every winter change to spring.'

"Would it be, my Lord, permissible for me to quote in this assembly the famous passage of St. Paul in his second epistle to the Corinthians: 'We look not at the things which are seen, but at the things which are not seen; for the things which are seen are temporal, but the things which are not seen are eternal'. We Hindus, my Lord, cradled in the religion of the Vedanta and Upanishads, we also look at things which are not seen. In the beautiful language of my country, used more than 2,000 years ago, the measure that is sought to be passed to-day is but a ripple on the wave of time, and will pass away. If I were not inspired by that hope and that belief, knowing how weak and ineffectual our voices were, I should not have come a thousand miles and more to record my humble protest. But, my Lord, for the day the defeat may be ours, but—

'The races rise and cluster,

The evils fade and fall,

Till chaos blooms to beauty,

God's purpose crowning all'."

The Hon'ble SIR VITHALDAS THACKERSEY said:—"My Lord, whatever may be the fate of this motion, whether the Government chose to accept the advice that the country may be given an opportunity to prove that no coercive measures are necessary for the ordinary purposes of Government, or stick to their opinion and continue this Act for five months, I hope the principles enunciated by the Hon'ble Malik Sahib will not receive acceptance. My Lord, our religion has taught us, we have been taught from the very beginning in our own homes, to consider the relation between the Government and the people as between parents and children, and not as enemies. The principles may be quite acceptable in Turkey or in Persia, but I am sure that they cannot be accepted by the most conservative of the conservatives in the British Government. Now with regard to this Bill, I may say that if I were satisfied that it is necessary for the preservation of law and order, I would be the first to support it.

"When the original Bill was before the Council in 1907 the Home Member then in charge of the Bill said: 'We were unwilling to legislate until we had seen whether the Council reforms that were laid before the public would meet any response in allaying seditious agitation'. He further went on to say: 'I beg that this condition may be taken as qualifying every word that I say to-day, namely, that the Bill is designed to operate only in exceptional circumstances, exceptional cases and exceptional times of insecurity'. Now, my Lord, is the condition of India such as to justify the continuance of a measure which was, according to the quotation I have read, introduced and passed to meet exceptional circumstances? The reforms, as has been already said here, so wisely and courageously initiated by Your Lordship and carried through with all the courage of a statesman in spite of enormous difficulties, have, I may say, enormously improved the situation in the country. This fact is not denied. Even the Under Secretary of State in the House of Commons declared the other day that the situation had improved and that reformers have been drawn to the side of Government owing to these reforms. I submit, my Lord, therefore, that to my mind it is not necessary to continue the operations of this Act any longer. Again, my Lord, in opening the first Council under the new Reform Scheme in January last, Your Lordship feelingly declared—'No one

has longed more earnestly than I have to allow bygones to be bygones, and to commence a new administrative era with a clean slate'. My Lord, I appeal to Your Lordship that it would be quite in keeping with the spirit of that observation to allow the present motion to drop and to give an opportunity to the people to prove that the Act is not necessary. And, after all, my Lord, what risk is incurred by Government in following that course? As has been pointed out, the present Act expires on the 31st of October. In all probability the next session of this Council will commence about the 10th or 15th of December. There is an interval of only five or six weeks during which this coercive Act shall not be in existence, and this is certainly a very short time, during which an opportunity, as I have suggested, may be given to the people. If after putting confidence in the people, the confidence is abused or misused, it is quite open to Government to come forward and introduce the Bill, which is proposed to be continued from the 31st of October; and in that case I am sure Government will get the support of all reasonable men for the preservation of law and order as they got support at the time of the Press Act. That position will be considerably stronger than the position of Government today when it is proposed to carry this Act in spite of opposition. As I have said, the risk is very small indeed. My Lord, the action that I have suggested will give a personal gratification to Your Lordship that you will leave this country peaceful and contented. It will also deepen the sense of gratitude in the minds of my countrymen, in whose hearts Your Lordship has secured a permanent place of respect and love, and will also be a crowning finish to Your Excellency's glorious régime which has been so successful in spite of enormous difficulties. Your Lordship may justly take pride in handing over the government of the country to your illustrious successor brighter and more hopeful."

The Hon'ble MR. MAZHARUL HAQUE said:—"My Lord, I have given my most earnest and anxious consideration to the Bill before the Council, and I have come to the conclusion, though rather reluctantly, that both in the interests of the Government and the country no fresh lease of life should be given to the Seditious Meetings Act of 1907. With every desire to support the Government in their efforts to weed out sedition and anarchy from the land, I feel that I cannot conscientiously support this measure. There may have been some justification for passing this Act in 1907, when some parts of the country at any rate were in a disturbed state and required rather severe handling, but now the country has quieted down and there is no longer any reason why the Statute-book should be disfigured by retaining a measure which is looked upon by a vast majority of the people with strong feelings of bitterness and resentment. I do not wish to be misunderstood. I believe that the Government of India, when they passed this Act, were actuated by the sole motive of grappling with a situation which had well-nigh become intolerable, and possibly the Act has been instrumental in clearing the atmosphere and relieving the tension to a certain extent. But I also believe that the necessity for its continuance no longer exists, and that it should now be consigned to a well-merited oblivion. The little good that it is supposed to have done hardly compensates for the evils and the soreness of feeling that it has brought in its train. Last February, in Calcutta, while announcing the release of the deportees, Your Lordship was pleased to remark that the agitation which till then had been carried on had degenerated into an anarchical conspiracy and that there was no longer any necessity for keeping these men in detention. Thenceforward it was the duty of the civil authorities to find out the criminals and bring them to justice. How truly had Your Excellency gauged the situation then, and has Your Excellency ever regretted the step taken at that time? Is it not a fact that the peaceful condition of the country for the past six months has conclusively proved that those wiseacres who mournfully shook their heads at this graceful act of clemency and conciliation were false prophets and that Your Excellency was entirely in the right? Why not follow a similar policy as regards the present measure? I do not believe that the people of India are so degenerate and lost to all sense of gratitude that they would not appreciate and respond to a great kindness such as this. My opposition to this measure is also based on the

principle that if the ordinary laws of the land be sufficient to cope with a certain class of crimes, it is highly impolitic to enact special laws. These only magnify and bring into prominence offences which should never be given any undue and mischievous publicity. Trials under special Acts attract the attention of the public to the personality of the offenders, who are at once raised to the position of martyrs to the cause, while if they were tried under the common procedure by the ordinary Courts of Law they would be treated as ordinary offenders, and what is more to the point they would get their proper deserts. At any rate there would not be any very great sensation about these trials. What I object to is the unnecessary and objectionable advertisement that a certain class of offenders receive by trials under special laws. In my humble opinion, the provisions of the present Code of Criminal Procedure are more than sufficient to prevent and suppress any meeting which had the propagation of sedition as its object. I am speaking in the presence of some eminent lawyers and especially of the towering personality of my learned friend the Hon'ble Mr. Sinha—the pride of all India—and of course, my Lord, I speak with great diffidence. But I may confidently say that all lawyers will agree with me that Chapters IX and XI of the Code of Criminal Procedure abundantly provide for the cases contemplated by the Seditious Meetings Act. As a matter of fact, there have been cases in which these provisions were enforced and successfully too. If my reading of the law is correct, then the question arises, why not utilize the common law of the land and thereby give a quietus to this perpetual agitation against repressive measures? The present Bill has the virtue of shutting the mouth of a few—a very few—of the seditionists, but has, at the same time, the fault of muzzling the vast majority of the loyal subjects of the Crown. Why punish the innocent many for the sins of the guilty few? Is that noble principle of British justice that it is better that ten guilty men should escape than that one innocent man should suffer to be reversed in this instance? A few youthful lunatics have taken it into their head to subvert the peace of the country by committing murders and outrages, and the whole country has to pay the penalty. Take the case of my own Province of Behar. I am alluding to my own Province by way of illustration. Otherwise the argument holds good for most parts of India. Behar is, as it has always been, free—singularly free—from the taint of these revolting crimes. Ask the Hon'ble Mr. Earle, who was so long in Behar that we Beharees consider him as one of ourselves, whether the soil of Behar is congenial for the propagation of the seeds of treason and sedition. Ask the Hon'ble Mr. Carlyle, another European Beharee in this Council, whether I am wrong in my description of Behar. If we Beharees have not offended and are not likely to offend against the law, then why should we be made to suffer along with the criminals of some other parts of the country? It is no use telling us that so long as we do not play with sedition we need not fear anything. The law is there and we are living under a sense of insecurity. Any day a foolish act on the part of a misguided youth may bring the whole Province into the clutches of the law. My Lord, it is neither sound statesmanship nor good policy to alienate the feelings of a warm-hearted and generous but sensitive people by enacting repressive and irritating measures. In the long run it can do no good either to the people or the Government. It has been truly said, where repression fails, conciliation can do wonders. And after all what has been the sum-total of the achievements under the Act which has been now in force for the last three years? Three or four districts only have been proclaimed and perhaps the same number of meetings suppressed. What a ridiculously paltry and insignificant result when compared to the abnormal and unhealthy excitement and irritation which is kept up throughout the country by the continuance of this obnoxious law. The ostensible object of enacting this law is to suppress agitation, but it defeats its own object by keeping that agitation alive, and very much alive.

“My Lord, I also strongly oppose this Bill on the ground that it effectually prevents the co-operation of the people with the Government. I am one of those who believe that the salvation of India lies in sincere and honest co-operation between the Government and the people and also between the different

communities and races of India. The recent alarming and mischievous growth of numerous sectional and sectarian movements cannot but retard the progress of the country and must make the task of governing it a very difficult one. If the Hindus and Mussalmans quarrel among themselves, then there is no hope for India. If the officials and non-officials look askance at each other, then the cause of our country is lost. Let us have done with this policy of suspicion and distrust. Let us have toleration and sympathy for each other's views. Then and then alone we can hope, in the fulness of time, to place India in its proper place among the civilised nations of the world.

"My Lord, this law has killed the public life of my country by taking away the right of public speaking—one of the most cherished privileges granted to us by the British Government. In place of meetings for the discussion of problems affecting the vital interests of India, we have now meetings for collecting subscriptions and voting addresses of welcome to the officials. This is a consummation which even the framers of the law could hardly contemplate with any degree of satisfaction.

"My Lord, India has just stepped into the field of modern civilisation. She is a young but a growing nation, with aspirations and ideals of her own. For her children it is an up-hill work to reach the summit. Mistakes are liable to be committed at the commencement of their career. It is the noble task of British statesmanship to correct these mistakes and to guide the activities of the people into proper channels. The difficulties are many and numerous, but surely tact and sympathy can surmount them. Of course, it is much easier to destroy than to build. The aspirations of a young nation can be nipped in the bud and the public life of a country like India be given a blow such as this Act contemplates which would kill it without any hope of resurrection. All this is extremely easy. But such a catastrophe could hardly redound to the credit and glory of England, in whose hands an all-wise and merciful Providence has put the destinies of India. I for my own part have an undying faith in the statesmanship of the British people and refuse to take any pessimistic view of the situation.

"Your Lordship has inaugurated a new era in this country—an era of conciliation and goodwill. The signs of a mighty change are already visible in the distant horizon, and if my countrymen would only keep to the path opened out for them by Your Excellency, their future is assured. My only regret is that the last act of Your Excellency's Government has been of a repressive nature. It could have been of a different description, but the fates had decreed otherwise."

The Hon'ble KHAN ZULFIKAR ALI KHAN said :—"My Lord, I think the proper time to pronounce a definite opinion about the Prevention of Seditious Meetings Act will be in March next, when its fate will be finally determined. At present it is proposed to let it live for five months more than its allotted period; but a brief review of the paramount necessity which compelled the Legislature to resort to extraordinary measures in order to cope with a novel and alarming situation would not, I believe, be inappropriate. My Lord, we all remember so well the time when sedition in India made its first unwelcome appearance. It was then supposed to be a negligible quantity and no serious attention was paid to its mischievous activity while it rapidly assumed alarming proportions. Platform speakers lost no time in promoting insurrectionary spirit of disorder and hostility to the English Government. Riots and disturbances of very serious nature imperilled peace all over India and the forbearance of the authorities was construed into weakness.

"It soon became manifest that an organised system of assassination and widespread network of intimidation received their sustenance from the subtle intellects of speakers who did not shrink from any falsehood which was industriously propagated concerning the intentions of Government. Young men committed outrages of a most atrocious character which caused desolation and misery in many a happy home, and there can be no doubt that these crimes were the simple translation into fact of the strange theories which had been so complacently propounded in public meetings.

"My Lord, it was openly preached and diinned into the willing years of callow students that the Government established by law in India was a relic of a hateful history and a symbol of an unjust domination.

"These and many other theories had the most disastrous effect on the morale of the people. But at last the exigencies of public justice and the claims of humanity awakened the Government to the sense of its responsibility; and the Prevention of Seditious Meetings Act was at once produced from the armoury of the Legislative Department.

"The effect was very salutary—the atmosphere which was surcharged with anarchical ideas was partially cleared of its impurities, and no better proof of its efficacy and indisputable necessity could be imagined than the comparative security of life and property which has resulted from its operations; still every now and then we are reminded of the contrast between the reality and semblance of things, and we cannot by any means conclude that the political barometer in India yet points to set fair. India is traversing a period of untimely and painful transition and a single false step at a juncture like this may produce grave political crises; and I would say that, in the interests of this country, it would be very unwise to let loose those tongues which almost succeeded in subverting the reign of law and order which happily prevails in India.

"My Lord, experience has shown that those of my countrymen who use all legitimate and peaceful means of demanding rights have nothing to fear from the application of the Prevention of Seditious Meetings Act and it hits only those who have evil intentions. My Lord, to my mind the Press Act and the Prevention of Seditious Meetings Act are virtually interdependent and the one without the other will be a perfectly futile measure. I would therefore suggest that they should run concurrently.

"In concluding these remarks I feel confident that all law-abiding people will be always only too happy to support the Government in the proper discharge of its primary duties to maintain law and order, vouchsafe justice and fair play, and uphold the sanctity of life and property in India."

The Hon'ble Mr. N. SUBBA RAO said:—"My Lord, I hoped that, if Your Excellency's Government wished to take power to continue the Act for some time longer, it might arrange to go down to Calcutta, say, a fortnight earlier than usual and submit the Bill for the consideration of the full Council in accordance with the established practice and the intentions of the Secretary of State in the transaction of important legislative business. Further, by October next it would have become clear to the Government, if it has not already become so, that there would be no necessity for continuing this 'repressive measure of considerable potency,' to quote the words of the Hon'ble Sir Harvey Adamson. Or, if Your Excellency's Government did not wish to put itself to this inconvenience, it might have allowed the Act to expire in the ordinary course of things, and leave it to Your Lordship's successor's Government to determine whether the then situation would demand the re-enactment of this exceptional legislation. This course would have the advantage of testing whether 'during the interregnum,' when the Act ceases to be in force, the so called 'moral effect' of this measure would in any way be lessened.

"But vain are these hopes, my Lord, when we consider the peculiar conditions in which the Government is placed. It has become evident that the Government feels that it cannot get on without this Act on the Statute-book and it does not feel comfortable if this measure is held in abeyance even for a month or two.

"I have felt compelled, therefore, my Lord, to attend this meeting, though at short notice and with much personal inconvenience, to enter my humble protest against the view that the Government has unfortunately taken of the political situation of the country and submit that the circumstances of the country do not call for this legislation at this juncture. The more so, my Lord, as I did not wish to leave any room for the responsible members of the Government

to draw the presumption, as the Hon'ble Sir Harvey Adamson erroneously did when this Act was passed in 1907, that 'the Hon'ble Members who are not present either approve of the Bill or at least do not so strongly disapprove of it as to consider their presence necessary'.

"I am sorry, my Lord, that the course which the Government has chosen to adopt is likely to mislead the public in England and lend color to the wrong impression that this country is so dangerously insecure that this exceptional legislation should be continued. My Lord, I must confess I that am obtuse enough not to see the necessity for this Bill. Since the Act was passed in November 1907, it was extended immediately on the 1st November to the Province of Eastern Bengal, where it was enforced on the 7th idem in the district of Bakarganj and latterly on the 14th March last in the districts of Bakarganj, Faridpur and Mymensing. I understand that the only use made of the Act in those districts was to prohibit the holding of District Conferences which might equally have been done under the Criminal Procedure Code. On the 13th of January last the Government was pleased to extend the Act under one and the same notification to all the other Provinces—Madras, Bombay, Bengal, the Punjab, the United Provinces and the Central Provinces. What is the reason for this wholesale extension of the Act? None is assigned in the notification. I should like to be enlightened by the Hon'ble Member in charge of the Bill as to the special circumstances in these several Provinces that necessitated the extension of the Act. If, as suggested, the object of the Legislature were to produce an 'invaluable moral effect' as a preventive measure in these Provinces, though there might be no occasion to enforce its provisions therein, it would not have invested the Governor General in Council with discretionary power to extend the Act from time to time to different Provinces. In justifying the extraordinary powers conferred by the Bill, the Hon'ble Sir Harvey Adamson assured the Council that 'that the Bill is designed to operate only in exceptional circumstances, exceptional places and exceptional times of insecurity.' 'As to the range of the operation of the Bill, the Government of India have retained it entirely in their own hands, and I can assure the Hon'ble Members that the whole circumstances will be well weighed before the Bill is extended to any Province.' Your Lordship in bringing the proceedings to a close observed 'it seems to have been generally assumed that, because it is applicable to the whole of India, it is to be universally enforced. That has never been the intention of the Government of India.' Thus it is clear that the intention of the Act is that each Province has to be judged on its own merits and the discretionary power has to be exercised with reference to the circumstances of each Province. I regret, therefore, that the discretion given to the Executive by the Legislature was not properly exercised for the benefit of the subject. Take the case of the Province of Madras. There were two cases of disturbance before the Act was passed. One was the defiance of authority on the part of the students of the Rajahmundry Government Arts College in April 1907, in connection with the wearing of the 'Vaude Mataram' medal. It was a freak of the moment repented amply at leisure. This was the only disturbance at Rajahmundry, and it was due to the advent of Babu Bepin Chandra Pal from Bengal, the exponent of the cult of *swaraj*, who is now in England. The other was the smashing of the European Club at Coconada by some among the lower orders of the people in May 1907, the immediate cause of which was the severe thrashing given to a boy by Dr. Kemp, the District Surgeon, for shouting 'Vaude Mataram'. The leading townsmen of Coconada immediately held a public meeting deploring the occurrence and strongly condemning the conduct of these people. These two cases were before the Act. After the Act was passed, there was a riot at Tinnevely in March 1908, when the municipal office was attacked by the mob. The District Magistrate had to give orders to fire and punitive police was quartered on the town. Yet it was not found necessary to put the Act into force in that district. What then was the necessity to extend the Act to Madras in January last? The Province was absolutely quiet and no sense of insecurity was felt anywhere I believe that what is true of Madras might with equal reason be

said of the other Provinces. I shall leave that matter to be dealt with by my Hon'ble Colleagues who have more intimate acquaintance with those Provinces.

"My Lord, I shall now refer to the general political situation of the country. If there is one thing more than another which is striking with regard to the present situation of the country, it is the returning faith of the people in the beneficent intentions of the Government and their recognition of its earnest desire to meet their just aspirations and enlist their co-operation by giving them a larger share in the administration of the country consistent with their self-respect and capacity. There is no doubt that during the last few years an anti-British propaganda aiming at absolute *swaraj* was preached by a few visionaries, driven to despair, among other causes, by the seeming failure of the methods of constitutional agitation. The impressionable and unbalanced minds of some young men were unhinged by this new doctrine of *swaraj*, and their misguided vision was dazed by the prospect of a short cut to independence. But soon they have come to learn from bitter experience that in adopting western anarchical methods they have been playing with fire and wrecking their own lives, with no good to any one. We can safely say that this wave of artificial discontent has well nigh passed away and spent its force, I hope, no more to return and retard the peaceful evolution of this ancient land. But one lesson is writ large on the face of the country, and that is, that there is no other royal road to progress, in whatever direction it may be, whether social, religious or political, than the path of constitutional advance, though slow and arduous. The gospel of revolt for attaining freedom, though new on the political arena, is not new to India. It has been continually preached these several years from religious and social reform platforms with the sympathy and encouragement of Europeans also, and the Hindu society, disorganised as it is, has in its own way been pointing to the path of constitutional reform for its future evolution and defending itself against attacks inspired by a spirit of 'random rebellion' by having nothing to do with those who revolt against its ideals, traditions and usages. So far, my Lord, the air has been cleared of misapprehensions in ideals and methods of work.

"I submit, therefore, my Lord, that, as testified to by the Under Secretary of State for India at the recent discussion of the Indian Budget, there has certainly been a revulsion of feeling in favour of the British Raj. The improvement in the situation is entirely due to the courageous steps taken by Your Lordship in the direction of reforming the administration of the country and to the abhorrence of the people to the anarchical methods adopted in some places. I submit that true statesmanship requires at this juncture that this tide of feeling in favour of the Government should be fully taken advantage of and nothing done to rouse the suspicions and resentment of the people and retard the good work that is in progress.

"Your Lordship has well observed that the success of the future development of the country must be based 'upon the united efforts and co-operation of British and Indian administrators' and that 'the fellow service of British and Indian administrators under a supreme British Government is the key to the future political happiness of this country'. We appeal to the Government to steadily persevere towards this noble goal for which, I may take the liberty to say, Your Lordship has worked so hard. I have no doubt that when the Indian is accorded a status of equality with his British administrator and feels that he is a real unit in the administration of the country, he will realise that the Government is as much his as that of his British fellow-subject. We can then hope to see the fruition of the united efforts and co-operation of British and Indian administrators in the future development of the country.

"But, my Lord, I feel bound to mention in this connection that there is a serious obstacle in the way, and that is the persistence with which anti-Indian propaganda is preached by a certain section of the Anglo-Indian Press which finds favour with a certain class of Europeans in this country and abroad. I submit that so long as this attitude of hostility and contempt towards the legitimate aspirations of Indians continues, so long will the beneficent effects of reform undertaken by the Government from time to time be

delayed and the efforts of the Government to draw the people to its side and inspire them with confidence in its good intentions and acts be frustrated. This attitude of hostility is an important factor which has contributed to the present situation and which has to be seriously reckoned with in the future development of the country. Action and reaction are equal, and unless this attitude of hostility is replaced by one of goodwill and sympathy, the rapprochement between the people and the Government will be seriously interfered with. My Lord, measures directed to bring about the happy results contemplated by Your Lordship are at present needed, but not this 'repressive measure of considerable potency'.

"I am told, my Lord, that there is still a revolutionary party in some parts of the country and there are also conspiracies of young men hatched in secret and finding vent in murders and dacoities. It is hardly necessary to say that this Act does not pretend to touch them and cannot hope to suppress them as it deals only with public meetings convened openly in broad daylight. But the Government has taken full powers to deal with secret societies and is strong enough to wipe them out.

"It is said, my Lord, that Local Governments want these powers to be held in reserve. Power is sweet, no doubt, and every Government, where the people have no voice, would like to have not only these powers but powers much more drastic. The question is whether each Province is so insecure that the Provincial Government should be armed with such powers. I submit that, as suggested by the Hon'ble Mr. Gokhale, each Provincial Government should be asked to take power through its Legislative Council, where local conditions could be well considered and local knowledge brought to bear on the subject, and it should not take shelter under the discretionary power of the Government of India.

"In this connection I am tempted to draw the attention of the Council to the present condition of Ireland and the recent debate in the House of Lords on the subject. My Lord, I may submit that the present condition of this country is nothing so dangerous as the condition in certain parts of Ireland, where boycotting, cattle-driving and shooting are carried to a degree which is described as 'scandalous and intolerable' by Lord Lansdowne. It was pointed out that the number of shooting outrages had increased from 60 in 1906 to 520 in 1909. Unionist peers urged on the Liberal Government the paramount necessity for putting the Crimes Act in operation. The answer to this is noteworthy. 'Coercion is no cure. Remove the cause of discontent and you remove the trouble in Ireland.' The Earl of Crewe pointed out that it had not been proved that the application of the Act had ever put down crime. Thus the Liberal Government steadily refused to listen to the counsels of repression so freely offered, and I hope Your Excellency's Government would equally refuse to be moved by alarmists who cannot gauge correctly the present situation and who would welcome any drastic measure because they themselves would not be affected by it.

"I should have been happy, my Lord, if I could have seen my way to support this legislation. But, my Lord, we feel that this Act has a deadening effect on the legitimate activities of the people. We feel the demoralising tendency of this exceptional legislation which would do more harm than good to the country. We feel that it is an undeserved slur on the loyalty of the people. We feel that the ordinary law is sufficient to meet the exigencies of the situation. We feel that the present improved political situation of the country does not call for this repressive measure. For reasons such as these, my Lord, I feel bound to oppose the Bill."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA said :—"My Lord, the measure before the Council is of exceptional importance, and perhaps it is due both to the Government and to the public, a portion of whom at least I claim to represent, to state the reasons why I think it my duty to oppose the motion that the Act for the Prevention of Seditious Meetings should be continued for another five months. My Lord, after the many able and elaborate speeches that have been made against the motion, it will not be necessary for me to take

up much of the time of the Council. But I must complain at the outset of the action of the Hon'ble Member who has moved for leave to introduce the Bill in having thrown the burden of making out a case for not continuing this Act upon the non-official Members. My Lord, I understand that it has been the rule in respect of all legislative business which comes before the Government of India, that the Hon'ble Member who introduces a Bill should state clearly the reasons upon which his motion is based, and should set out before the Council the facts and circumstances which would enable Members, non-official as well as official, to decide whether to vote in favour of the Bill or against it. The Hon'ble Member has told us very briefly that all that the Bill aimed at was the continuance of the Seditious Meetings Act for only five months. He has also told us that the Local Governments have unanimously demanded it. So far as he was concerned, he was no doubt free, as he was willing, to surrender his judgment to the judgments of the Local Governments, particularly of one which is presided over by a gentleman of the experience and large views of Sir Edward Baker. But he seemed to forget that there were other Members in the Council who were not in the confidence of these Local Governments as he evidently happens to be; who did not know what the circumstances were which had led Sir Edward Baker and other Local Governors to ask for a continuance of this Act. My Lord, there is a certain responsibility resting upon the non-official Members of this Council as well as upon the official Members. It is also given to us to think, and we have to satisfy the still small voice that even we feel within us that there is some justification for supporting a motion to saddle the Statute-book of the country with a measure which was described by Sir Harvey Adamson, as many speakers have reminded the Council, as a repressive measure of considerable potency. This exceptional measure, intended for exceptional times and exceptional places, has now been on the Statute-book for nearly three years. The Government of India when they passed it almost offered apologies for introducing it, and for asking that it should be continued for three years—such was the state of the country at the time. Sir Harvey Adamson repeatedly said that the measure was intended for exceptional times and exceptional circumstances only, and he took the greatest care to point out that in order that the measure might lack the element of permanency, the life of every notification which was to be issued by a Local Government to declare an area to be a proclaimed area was confined to a period of six months.

“My Lord, the assurances given by Sir Harvey Adamson and the remarks which fell from Your Excellency in concluding the debate, had led the people to believe that unless some very special circumstances which would justify the continuance of that measure were shown to exist, it would be dead on the 31st of October 1910. It was with much surprise and regret therefore that we learnt that, while the Government was at Simla, a Bill would be introduced to give a new life to this repressive measure even before it is dead. I submit, my Lord, that in the circumstances of the case it lay heavily upon the Hon'ble the Home Member to place before the Council facts and circumstances which would enable the non-official Members to decide whether they should give their support to the measure or oppose it. I may be permitted to say, and I am sure Your Excellency will accept the statement, that it is not a pleasure to non-official Members to oppose Government measures. We feel the very reverse of pleasure in opposing them. But we feel, my Lord, that we are here to express opinions which we can justify first to ourselves and then to the public. We feel that we are to be judged not by this Council only but also by the much larger and far more important body of our countrymen who are keenly watching the conduct of non-official Members as well as that of Members of the Government in dealing with any legislation which affects them.

“Now, my Lord, we might all of us agree in the view that when the circumstances which gave rise to this legislation ceased to exist, this measure should have been allowed to die a natural death. Let us see therefore what those circumstances were and whether they exist in the country today. When the Regulation of Meetings Ordinance of 1907, which was a prototype of the Act

which is now under consideration, was issued, it was stated in the Statement of Objects and Reasons which accompanied it that the 'acute disorder' which prevailed in the Punjab and in parts of Eastern Bengal had led to the passing of the Ordinance. My Lord, that acute disorder had almost died before that Ordinance was issued; it certainly did not exist when in November 1907 the Government decided to pass the present Act. But even assuming that there were circumstances in 1907 which justified the passing of the Act, or at any rate satisfied the Members of the Government that it was necessary in the interests of good government, in the interests of the preservation of the public peace, that a strong measure like that should be continued or be placed on the Statute-book, the Hon'ble Member who has put forward the motion under consideration before the Council was bound to satisfy this Council that these circumstances or conditions similar to them exist today when he seeks to give a new life to the measure. When piloting the measure through the Council, the Hon'ble Sir Harvey Adamson said that he had no desire to disguise the fact that the measure was one of considerable potency. He justified it however on the ground that in his opinion in the then condition of India such a measure was necessary. My Lord, what are the conditions which exist now? Do they make even the faintest approach to the conditions which existed in 1907? Sir Harvey Adamson complained at that time that the scheme of constitutional reforms which the Government had formulated had not brought about such a change in the public mind as had been expected, and that the Government felt that they had to deal with a section of irreconcilables. But we know that the scheme of reforms originally put forward has, after undergoing many important changes, been carried out since; and notwithstanding the fact that there have been some serious complaints about the regulations framed under the new Councils Act, no one can deny that the reforms as a whole have been received with a feeling of gratitude and have greatly improved the political situation. I believe that there has been a consensus of official and non-official opinion that the reforms carried out have brought about a marked change for the better in the attitude of the general public towards the Government. Is that change to count for nothing in determining whether a repressive measure should be allowed to die its natural death or should be kept alive by fresh legislation?

"We have been told that the Local Governments have asked for the Act. With due respect to the Local Governments we cannot blindly substitute the judgments of Local Governments for our own. My Lord, it is difficult for us to understand why, while all that is open and visible to the public eye indicates an absence of those conditions in the country which should justify the re-enacting of a repressive measure like the one before us, while it is undeniable that there is a world of difference between the conditions which obtain in some Provinces and those which prevail in others, all the Local Governments are unanimous in recommending that such a measure should be brought on the Statute-book for the whole of this vast Indian Empire.

"My Lord, the political situation in India was carefully summed up not long ago in the letter which the Government of India addressed on the 14th March last to the Government of Bengal and to the other Local Governments. In that letter Your Lordship in Council was pleased to recognise that nowhere in India was any considerable proportion of the population imbued with the spirit of disaffection towards the British rule; that there was a party, small in numbers, though of considerable influence, in the opinion of the Government, which was opposed to the continuance of British rule; that among this small party also there was a class which was opposed to a resort to violence; that the other class which advocated and practised the methods of terrorism consisted 'for the most part of youths who are still at school or college, and of young men who have not long passed that period of their life'. The letter went on to say that these active revolutionaries were most prominent in parts of Bengal and Eastern Bengal and Bombay; that their movement had spread to the Central Provinces and Berar, and to the Punjab; but that it had made little headway in Madras and in the United Provinces; and that the Government of India had received no information of its existence in Burma and in the North-West Frontier Province. That being so, I

appeal to Your Lordship, I appeal to every Member of the Council, to judge what change has been brought about since March last which should justify the saddling of my Province, the United Provinces, or of Madras, or of Burma or the North-West Frontier Province with this repressive measure. My Lord, one event has no doubt happened, and that a very sad one too, namely, the death of our beloved King-Emperor. But the demonstrations of grief which that event called forth should have satisfied even the most sceptical mind that the heart of the people is sound; that they mourned the loss of the King-Emperor with as much sincerity as their fellow-subjects in any other part of the Empire; that they would not have done so if they did not appreciate the British connection and did not want the British rule to continue. What else, my Lord, could be the meaning of the great demonstration that took place in Calcutta, where a hundred thousand Hindus walked a long distance in a burning sun, bare-headed and bare-footed, in order to give united and public expression to their grief? My Lord, there have been manifestations of similar grief all over the country, and there are movements going on at present in all Provinces to raise suitable memorials to the revered memory of Edward the Peacemaker. With these evidences of a strengthening of the feeling of loyal allegiance to the Crown that has long existed in the minds of the people, is this the time for the Government of India and for the Local Governments to ask for a continuance of a repressive measure the life of which is to expire by efflux of time in October next? One should have thought, my Lord, that the Government would at such a time have welcomed the removal by natural death of a measure which it has seldom, if ever, found it necessary to use, but which must always be a source of irritation and complaint to the great body of the loyal and law-abiding population of the country, particularly as there is nothing special in the existing circumstances which would justify an opposite course.

"It may be said, my Lord, that the Government cannot ignore the existence of the band of terrorists and anarchists. Your Lordship was pleased, in that same letter to which I have referred, to deal also with the case of these misguided enemies of their country and of its Government. I need not repeat, what several other Members have said before me, that every sensible man who has the interests of this country at heart must deeply deplore all anarchical outrages and all unconstitutional action. But it cannot be said with any reason that the prevention of public meetings of twenty persons and more will exercise any restraining influence upon evil conspiracies, on the action of those who hatch their plots in secret, and who must, by the very nature of things, always endeavour to carry out their diabolical designs without all avoidable publicity. It is important to remember in this connection that the existence of the Act in question has not evidently hampered terrorists in their action during the last three years. This Act cannot therefore be claimed to be a remedy for that disease.

"Your Lordship's Government was pleased in the letter of March last not only to analyse the political situation but also to suggest some suitable remedies, if I may say so, with the eye of a statesman. The Government expressed its belief that the seditious movement is in the main due to ignorance and misapprehension of the natural consequences of British rule in India; that though there existed in the ranks of those who were hostile to that rule a residue of implacable hatred of all alien intrusion, 'all the information which has been placed before the Governor General in Council supports the view that the majority of the advocates of nationalism have been misled by shallow arguments and prejudiced statements'. The obvious remedy for this state of things was that the other side of the case should be put before these young men. Your Excellency therefore wisely called upon all officers of Government, and indeed all supporters of law and order, 'to do his best, each in his own sphere, to combat misrepresentation and to remove misapprehension regarding the character and results of British rule'. The officers of the Education Department were rightly asked to check the spread of seditious views among their wards by sympathetic discussion and kindly guidance; the attention of all District-officers was directed to the necessity of taking leading men in each

district into their confidence, and of cultivating a courteous and considerate demeanour towards all with whom they are brought in contact. The concluding portion of the letter stated :—

‘The Governor General in Council believes that there is every reason to expect success for a policy on the lines described in the foregoing paragraphs. There is much ignorance and misunderstanding on the subject of British rule in India, and thence has arisen a spirit of disaffection. That spirit has not spread far, and the wrong impressions on which it rests are capable of removal by conciliatory discussion and earnest remonstrance. Many supporters of this so-called nationalist programme have taken alarm at the development of what they regarded as a permissible political movement into the fanatical outrages of the terrorist section. The moment is favourable for detaching them from the party of disaffection and for convincing all but the most extreme of the danger to the general welfare of persistent attacks upon the foundations of the established Government. The great body of the people are entirely loyal and prepared to join with the officers of Government in this mission against disaffection.’

“I submit, my Lord, that that was a clear and statesman like pronouncement on the policy which the Government should pursue at the present time. It supplied the true remedy for the disease from which the country has in parts suffered and is unfortunately still suffering. But these methods of conciliation require that a free and public discussion of grievances and views should be encouraged rather than discouraged, cases of any serious abuse of the liberty of speech or meeting being left to be punished by the ordinary laws of the land. At any rate the policy of sympathetic guidance and conciliation which the Government of India deliberately decided upon but a few months ago will be to a large extent stultified if this fetter on the freedom of speech and action is continued, if this repressive measure is given a fresh lease of life. This being my view of the situation, I submit with great respect that the Government should not go on with the proposed legislation. I fully realise how vain it would be to hope that the Hon'ble Member in charge of the Bill will drop the motion. But, my Lord, I consider it my duty to say that it is very unfortunate that he should not be able to do so. There is nothing more important at this juncture for the good government of this country than that there should be a feeling abroad among the people that the Government are willing more than ever to listen with sympathy to the representations of Indians, to give due consideration to the wishes and opinions of representative Indians, who are quite as much anxious to uphold law and order, as being the *sine qua non* of peaceful progress, as any official member can be. Your Lordship has seen that there is a large body of unofficial opinion almost begging that the Government should not proceed with this measure. In these circumstances, unless the Hon'ble Member can lay before the Council the opinions of the Local Governments that he has received and relied on, unless he can disclose facts and circumstances which show that there is a danger that, if meetings are allowed to be held freely as they used to be held before this Act was passed, this circumstance will tend to disturb the public tranquillity or lead to some other crime which cannot be dealt with by the existing enactments, I submit, it cannot but be deplored that the Bill should be proceeded with and passed.

“I do not wish to dwell at length upon the existence of other provisions in the law which place ample power in the hands of the Government to suppress meetings which are likely to promote sedition or to lead to a disturbance of the public tranquillity. Some speakers who have spoken before me, including the Hon'ble Mr. Madge, have said that the existing law is not sufficient. My Lord, it is not necessary for me to enter into a discussion with these gentlemen as to whether that is so or otherwise. My lawyer friends have presented the correct view of the situation. Besides, an ounce of fact is better than a ton of argument. The Council has had a few such facts placed before it, facts which go to show that meetings of 50,000 persons and more in Calcutta, and other large meetings in Nagpur and Eastern Bengal, have been dispersed quietly under section 144 of the Criminal Procedure Code. It may be said that if it is a fact that both in that section and in the section relating to unlawful assemblies there is ample power given to the Executive to disperse any assembly which it considers to be objectionable, then why should we object to a measure of this character, which merely gives the same power to Government which it already

possesses under other Acts? The reason for this is this. We submit that while the powers which the Government possesses under the other Acts are amply sufficient to deal with every individual case or cases of the abuse of the right of meeting that may arise, the conferring of this general power of proclaiming an area, by which the voice of the whole population there may be silenced, is most dangerous and unjust. My Lord, what is it that may happen under such an Act? As some of my friends have pointed out, some mischievous miscreant or some misguided young man talks a little nonsense in a place, the police send up long reports of danger to the State or to the public peace, and the whole district is proclaimed. I do not say that the Lieutenant-Governors and Governors of provinces do not fully weigh the situation; but they are after all human, and therefore liable to err. They have to act upon the reports of the man on the spot, who, in his turn must act upon the reports of the police or of the Criminal Investigation Department. And we have had sufficient instances of the abuse of the powers given under the Act.

"We have seen how for the faults, more imaginary than real, of a few men or a small coterie of men, the population of a whole district, the great bulk of whom, must, as the letter quoted before has told us, be regarded as undoubtedly loyal to the Government, have been deprived of the right, which they enjoy under the British Government, of free public meeting and of giving free expression to their opinions and their sentiments, to their grievances and desires in relation to public questions which affect or interest them. It cannot but be regarded as a serious public grievance that, for the misconduct of a few individuals, the whole community in a locality should be prevented from freely exercising a privilege which they have never abused.

"My Lord, not only has no necessity been shown for the measure before us, but there is also the fear, as my friend the Hon'ble Mr. Gokhale has pointed out, that a repressive measure may itself, by being abused in its working, lead to promoting the evil which it was intended to cure. The Seditious Meetings Act and the Press Act have both already given illustrations of the truth of the old adage that the sight of means to do ill deeds often makes ill deeds done. Look for instance at the action of the authorities in Eastern Bengal in suppressing three district conferences and the meeting which sought to help the depressed classes. I venture to doubt if the said conferences or the said meeting would have been stopped if the Seditious Meetings Act had not been in existence. Look again at the action taken in several places under the Press Act in contravention of the pledge given by the Government when it was going through the Council, and think of the irritation which the abuse of its provisions must cause in the public mind. So long as the Government will keep these two measures on the Statute-book, I regret to say, but I feel it my duty to say it, so long will all efforts to conciliate public opinion generally be beset with unnecessary difficulties, will continue to be unnecessarily difficult of accomplishment.

"I do not wish to detain the Council any longer. But I cannot help referring in this connection to the action taken under the Press Act with regard to Mr. Mackarness' pamphlet. I know that several Local Governments have thought it wise to suppress that pamphlet. I have no doubt that they believe that they have acted rightly in the matter. But with due deference to these Governments, I venture to think that if the new Press Act had not given them the indefinitely wide powers which it has given them, not one of them would have ever thought of suppressing the pamphlet. None of them perhaps would even now think of prosecuting Mr. Mackarness for it. The pamphlet might not have done full justice to the efforts of the Government to improve the police. But what did it aim at except a suppression of the evil practice which it exposed? It has been said, my Lord, that the Government of India have been denouncing the practice of torturing accused persons with a view to extort confessions from them, at least ever since they enacted the Indian Penal Code, which has laid down that any person who would so put people to torture would be liable to be punished with imprisonment which may extend to seven years. But the existence of such a provision has

not evidently proved to be a sufficient deterrent, and in view of the facts brought to light in some recent cases, it was clearly necessary in the public interests to draw public attention to the evil with a view to have special measures taken to effectually discourage it."

His Excellency THE PRESIDENT: "I am afraid that I must interrupt the Hon'ble Member. Mr. Mackarness' pamphlet has got nothing whatever to do with the present discussion."

The Hon'ble PANDIT MADAN MOHAN MALAVIYA: "I bow to your Lordship's ruling. I wished to point out how easily a repressive measure may be abused, and may give rise to great irritation, when the object of the Government is that cause for irritation should not be given."

"I will now conclude. I think I have said enough to show that no justification has been made for proposing an extension of the life of the Seditious Meetings Act; that the powers which the Government possess under the existing provision of the law are amply sufficient to effectively prevent as well as to punish any attempt to promote sedition or to disturb the public tranquillity which might be made by persons who are hostile to Government and whose number is small; that the great bulk of the people are loyal to the core, and are more than ever inclined to co-operate with Government in maintaining law and order; that the policy of conciliation is in these circumstances the only safe and wise policy; that it should be steadily and earnestly pursued; that unless some overpowering causes intervene, nothing should be done which is likely to interfere with the success of that policy. I believe that no such causes demand a continuation of an Act of an abnormal character, which must operate against the return of normal relations between the Government and the people. For these reasons I beg humbly to oppose the motion which is now before the Council."

His Honour THE LIEUTENANT-GOVERNOR OF THE PUNJAB: "My Lord, it was not my intention to have spoken upon this measure, since in the capacity of Head of one of the Local Governments I had urged the continuance of the Act, at any rate until next spring. And I am very sorry indeed to trench at so late an hour upon the time of the Council. But I feel that some non-official Members have put rather a strong case for some explanation of the reasons for the continuance of the Act, and also as I shall not probably have the opportunity of explaining my own position in the matter next spring, it appeared to me that, with your permission, I might say a few words on the present occasion. We have heard that Local Governments are very stiff-necked, and there is no doubt that we are very stiff-necked when any measure or any action is put forward which we believe to be inimical to the prosperity and the tranquillity of the Provinces in which we are so much interested. I am, however, glad to recognise that two non-official Hon'ble Members have also called us human, and I hope we are most thoroughly human and most thoroughly in touch with the aspirations and the wishes of the communities which are temporarily placed under our charge."

"Now nothing would give a Local Government greater pleasure than to be able to dispense with any of these measures; but circumstances, however, frequently render the introduction and the enforcement of such measures necessary. It is perfectly true, as Hon'ble Members have said, that the condition of the Punjab at present is happily very different to what it was in the spring of 1907; and nobody recognises that fact more fully than myself. I believe that the present condition of the Punjab is largely due to the introduction by Your Excellency's Government of the reformed Councils, and generally to the policy of conciliation which has been followed for a considerable time. At any rate, it has been my own practice, and I have enjoined that practice upon all my subordinates, that they should take every opportunity of putting themselves in the closest touch with all persons who can put forward any reasonable claim to represent any important section or sub-section

of the communities with which they have to deal, and that they should ascertain the wishes and views of these people informally in every way, and should put the case of Government before them so that they may move them by logic and not by repression. That policy, I am happy to say, has in most cases been very successful; but we cannot rely upon that policy entirely. One Hon'ble Member has referred to the old legend of the Danish King in whose proceedings I may be supposed to take a certain amount of personal interest, and he has pointed out that it was impossible to suppress the billows of the sea. I do not quite think that that was exactly what King Canute attempted. I believe that all he was asked to do was to order the tide not to rise beyond a certain point, and he wished to show to his somewhat syco-phantic advisers how very impossible it was to do such a thing merely by the expression of a polite wish or even by the utterance of an order to which there was no ultimate sanction. But we can do a good deal, not to suppress the billows of the sea but to regulate their action and even to control the tides. A good many ships have been saved by pouring oil upon the troubled waters. That Your Excellency's Government has done with the greatest success, by pouring the oil of conciliation upon the troubled waters of India. But other measures are sometimes necessary.

"I belong to a Province which is blessed with the possession of a great many somewhat turbulent rivers which, if allowed to pursue their own irregular courses, would do infinite damage for want of proper training. Therefore, we construct training works founded upon experience as to the best way of carrying out such works, and the result is that these training works prevent these rivers from doing damage, widespread and serious, and divert them into more profitable courses to the great benefit of the country and all that it contains. I venture to think that the Press Act and this Bill for the Prevention of Seditious Meetings are works akin to these physical training works by which we guide the forces of our great rivers on proper lines. They operate to divert public actions and public movements from channels which can only result in widespread disaster and misfortune.

"The trouble in 1907 in the Punjab was very largely due to the perverse and pestilent teachings of a very small clique of persons some of whom did not belong to the Punjab. In fact, some came from that Province which we are called upon to admire as a perfect Eden in India—the United Provinces. These persons used their natural intelligence to operate upon the minds of the Punjab peasants and tried to make out to them that they were being badly used by a base and tyrannical Government, and by misrepresenting in the most serious way the actions and the intentions of that Government. Now, the Punjab peasant is a person with whom it is rather difficult to deal. As a rule he is prosperous, loyal and faithful, and nobody has a greater admiration for the peasant of the Punjab than I have myself. But he is liable, when worked upon in a clever way, especially when his religious feelings are approached, to sudden ebullitions of violent temper which, in the case of the Punjab, are particularly dangerous. I have pointed out on several occasions that the Punjab furnishes the whole frame of the Indian army—this means that an enormous number of soldiers upon the active list, upon the retired list, and in the reserves are scattered throughout the Punjab villages; and these men are very liable to have their feelings worked upon; and if their feelings are worked upon they form a nucleus and leaders whom the rest of the people following may often get into serious trouble. Now, happily, all that particular gang of persons who were so energetic in the beginning of 1907 in misleading the people have left the Punjab for the Punjab's good, or else have been temporarily detained in prison. That, I believe, has also very largely conduced to the present quiet of the Punjab. Unfortunately, during the winter and spring of this year it was reported to me by local officers that a similar campaign of misrepresentation, directed not only against the British Government as by law established in this country, but also against other important sections of the community, was being carried on by a similar set of men to those who had given us so much trouble in 1907. It was done very cleverly. Meetings were

got up for purely social purposes or for purely religious purposes, but those meetings were diverted to totally different objects, and a great deal of racial and religious odium was thereby being excited. At the same time it so happened that some of the Punjab soldiery whose minds had been perverted and contaminated outside the province had had to be dismissed from the Army and had returned to their homes. The presence of these men was utilised by the leaders of this agitation to get up a movement condemning, on religious and racial grounds, all service under the British Government in the Indian Army. Such a movement could only have had the most serious and disastrous results if it had spread in the Punjab, and it would have been the ruin of the peasantry, who have honourable careers open to them at present in the Army from which they derive respectable incomes.

* It is alleged that it is quite easy for the Local Government, under the provisions of the ordinary law, to stop such meetings. Of course it is perfectly easy for the District Magistrate to suppress a meeting when he knows that the conditions under which that meeting is held and the circumstances in which it is held are so electrical as to render it almost certain that the holding of the meeting will produce a breach of the peace. But that is not always the case. To have a breach of the peace you must have two sides, and at a great many of these meetings the people were practically all of the same class and were brought together for what they supposed to be a common object of their own class; and consequently it was open to the agitators to pervert and contaminate their minds without there being any immediate prospect of a breach of the peace. It is quite possible that the action which the men were taking might have led to more than a breach of the peace—to general disturbance of order; but such disturbances would not have been an immediate consequence of those meetings, and it would hardly have been possible, so my local officers have represented, for the District Magistrate to take action for the immediate suppression of those meetings. Besides, we have heard a good deal of that much-abused force, the police. It is not my business on the present occasion to take up any brief on behalf of the police; but, assuming for the sake of argument that the police-force is as black as it is painted, surely it is not a satisfactory thing that we should have the police perpetually interfering for the suppression of meetings. It appeared to me, therefore, that it was very much better to act in an open and straightforward way and to apply this Act to the Rohtak District where these meetings were most frequent, and where some very large meetings were contemplated which I was assured would probably lead to very serious disturbances between the Hindus and Muhammadans of that district as well as to active discontent and sedition towards the British Government. I ought to say at first that we had done all that we could to get hold of the persons interested in these meetings and to try to persuade them that the action they were taking was most undesirable not only in the interests of Government and the public peace but in the interests of the national cause which they professed to have at stake. We did all we could by private means and private persuasion to get them to drop the campaign which they were conducting, and it was only when all these measures failed that this final measure was taken and that we applied a firm and well-considered training work to train the minds of the people in the direction in which it was most suitable for them to go.

“ Well, the result of the extension of the Act was that the meetings were all dropped. We did not in the least prohibit the meetings. We were perfectly content that they should take place provided we knew who were the persons who would attend the meetings, because a great many of these agitators were people from outside the district altogether. They came and disappeared in the course of a night, and it would have been impossible to have bound them over as has been suggested as a suitable way of dealing with such cases. Now I can only say that the result of the extension of the Act to the Rohtak District has been, according to the opinion of the local officers, satisfactory. I may say that one of these local officers is an officer who has been in the district for some six years and is intimately acquainted with every

portion of that district and is quite an expert in the particular dialect which is spoken in that district and therefore he is a man whose word may be taken in a matter of this kind as specially reliable. He was an officer who was most unwilling that these *panchayats* should be interfered with in any way, and it was only after seeing the injury which was being caused that he was forced to ask for what he termed special ultra-legal powers in order to enable him to stop what he believed to be most dangerous. Well, he and the Commissioner both tell me that nothing but good has resulted from the application of this Act. The people have quietly settled down, and all this seditious talk which was going on, abuse of their Muhammadan brethren, abuse of Government and its officers, and the knife-killing agitation has ceased, and the Rohtak District is now as happy and peaceful as it was before the agitation commenced.

"There was a special reason for operating in this district, and that was that Rohtak is a curious district. In fact, on one or two previous occasions, as I suppose is not known to many Hon'ble Members present, very serious Hindu-Muhammadan riots have occurred which have led to a great deal of bloodshed and a great deal of damage to the property and prosperity of the district. The people there are bucolic and quiet as a rule, but intensely excitable, and it is excessively dangerous to allow matters to come to such a head that there should be any danger of an outbreak of religious strife or of sedition against Government.

"My Lord, I have ventured to take up the time of the Council to this extent in order to show that Local Governments, human though they be, and stiff-necked though they are called, do not ordinarily take action in a matter of this kind, which is entirely opposed to their feelings and desires, unless they have the very strongest possible grounds for doing it. I also venture to think that it is highly desirable that Local Governments, when such circumstances arise as to render it necessary that something should be done to divert people's attention from a perverse and pestilent agitation, should have at their hand a weapon which would enable them to give immediate and instant legal effect to those measures which they think are absolutely necessary for the preservation of public order and peace."

The Hon'ble MR. EARLE: "My Lord, before I comment upon this Bill I would like to refer to a point that has been raised by the Hon'ble Mr. Gokhale, who complained that the opinions of Local Governments had not been furnished to him. It was yesterday that he made this demand. We were only too anxious to comply with his request because we thought that it was desirable that all Members should be furnished with the opinions of Local Governments on a measure on which they were going to speak the very next day. Therefore, both the Hon'ble Home Member and myself endeavoured to arrange to give him copies of those papers. Unfortunately, the letters that have been received from Local Governments were all of a strictly confidential character. In the ordinary course of business, when a legislative measure comes up for consideration, we call for opinions from Local Governments, and in many cases the letters which we issue and receive are of a confidential nature, and in this case that was what happened. As a rule, after these confidential letters have been received, we frame a Bill, then it is introduced in Council, then the Bill is published and opinions of Local Governments are called for. These opinions of Local Governments are invariably placed in the hands of Hon'ble Members. It is only in those exceptional cases such as the present, where we have to introduce a Bill and pass it on the same day, that a difficulty arises. We quite recognise that Hon'ble Members are at a disadvantage, and we shall try and arrange that in future some means shall be adopted so that they shall have this information before them. It is quite as much to our advantage as to theirs that Hon'ble Members should be supplied with full information. In the present case we think that the opinions of the Local Governments would have decidedly strengthened our case.

" I now, with Your Excellency's permission, will make a few remarks as regards the Bill itself. The chief note struck, as far as I can see, by Hon'ble Members who have opposed the Bill is that as the political situation has improved—and this is admitted—therefore the extension of this measure is unnecessary, and an act of supererogation. I must say that I think that if Hon'ble Members who have opposed the Bill lay under the obligation, which rests upon the Home Department, of reading numerous reports and digesting a large mass of literature dealing with seditious subjects, they would speedily change their point of view and agree that it is better to nip sedition in the bud than to allow it to come to a head and then have to initiate prosecutions against offenders. My Lord, sedition is not dead; it is not even merely dormant; it is wakefully alive and it is merely waiting for its opportunity when it finds the authorities are off their guard. There is not a doubt that if they had the chance, the revolutionary party would make speedy use of the weapon of inflammatory oratory. If a speech such as my Hon'ble friend Babu Bhupendra Nath Basu has made today is possible in the Imperial Legislative Council, Hon'ble Members may easily gather what the extremists and revolutionaries will do in out-of-the-way districts where there is no authority to watch them.

" It has been argued that a sparing use has been made of the Act, and that therefore its extension and its retention upon the Statute-book is unnecessary. It seems to be forgotten that the whole object of this Act is to meet exceptional circumstances of danger. As the Hon'ble Sir Harvey Adamson, the late Home Member, said in 1907 when this Bill was before the Council, this measure is designed to operate in exceptional circumstances, in exceptional places and in exceptional times of insecurity. The fact that very sparing use has been made of it seems to me to be proof that the intentions of the Act have been very faithfully carried out.

" Then it is argued that the authorities have sufficient powers under the existing laws. Now, it is undoubtedly true that under the Calcutta and Suburban Police Acts, and the Bombay City Police Act, the authorities are armed with considerable powers which enable them to deal with seditious meetings. These Acts, however, of course, are purely local in their application and they have no reference to the mufassal, and yet it is in the mufassal rather than in the town areas that the greatest harm can be done. Now, the Mufassal Police Acts are notoriously deficient, with the exception of the Bombay District Police Act, in giving the requisite powers for dealing with these meetings. No doubt use can be made of section 144 of the Criminal Procedure Code. That section enables the authorities to prohibit any individual or the public generally from taking action which is likely to cause a breach of the peace. There are, however, legal difficulties in connection with this section, into the details of which it is not necessary for me to enter, which render this section not entirely suitable, and it is not desirable that the authorities should be tied down to the use of that section only as a means of general prevention.

" As in 1907, I think there has been considerable exaggeration and misapprehension as to the scope of the Act. Even in the very few areas which are proclaimed from time to time, public meetings can be held, provided that they are not held for the furtherance and discussion of subjects likely to create a breach of the peace or any political subject or for the exhibition or discussion or distribution of written or printed matter relating to such subjects. Moreover, the notifications which are issued from time to time by the Local Governments hold good only for six months, and even during that short period of six months they can withdraw a notification if they find that the circumstances of any particular area have improved so as to render the retention of the notification unnecessary. Similarly, in regard to Provinces, should any Local Government come up to the Government of India and say that the extension of the Act which was made in January 1910 is unnecessary, I cannot imagine for one moment that the Government of India would insist upon these provisions remaining in force. It rests with the Local Governments to make representations, and in this way the view held by several Hon'ble Members that Local Governments should have some say in this matter would be met.

"Then it is said that the Seditious Meetings Act has a tendency to drive sedition underground. In regard to this matter, I thoroughly agree with what His Honour Sir Edward Baker said in 1907. His Honour said on that occasion that publicity and self-advertisement were the very breath of the nostrils of seditionists and revolutionaries, and that, if these were taken away, half the attraction of the game would go with them. There the question is put in a nutshell. Again it is said that public meetings act as a safety valve. I think that this statement certainly requires qualification. We know only too well that meetings are frequently held in this country not so much for the purpose of giving vent to discontent which actually exists as to create discontent where none previously existed. I had personal experience of this only two years ago in the Patna District. There we had a contented and peaceful peasantry, but agitators came amongst them and tried to create trouble. I am glad to say that the agitators were not successful, but that was chiefly because the peasantry would have nothing to say to them. The criminality of the agitators was not the less on that account, however, but was rather the greater. In this connection gladly do I testify, as suggested by my Hon'ble friends Mr. Sachchidananda Sinha and Mr. Mazharul Haque, to the general good character and splendid loyalty of the people of Behar. I have served in that Division as an Assistant Magistrate, as a Magistrate and Collector, and lastly as a Commissioner of a Division, and my experience of the people of Behar merely coincides with that of every other officer who has served in what is well and properly known as the 'Garden of India'.

"I notice that in 1907 the Hon'ble Mr. Gokhale observed that if the Bill which was then before the Council became law, social parties would be raided upon and broken up, and that even the host and guests would be hauled up for having held political or public meetings without having given previous notice. My friend Dr. Rash Behari Ghose also said that if the Bill were passed, the police would become absolute masters of the people and that their domiciliary visits, which would not be few and far between, would be certain to create disturbances. I have had very careful inquiries made, and am glad to say that I can find no trace of any such acts of oppression. I notice that my friend Mr. Gokhale referred to trouble created by the authorities under the Press Act. It is particularly noticeable that he referred to nothing of the kind under the Seditious Meetings Act.

"Lastly, as regards the temporary extension which is now before the Council, I think that it is amply justified by the circumstances which compelled the Government of Eastern Bengal and Assam to proclaim three districts in March last, and more recently by the circumstances which, as pointed out by His Honour the Lieutenant-Governor, compelled the Punjab Government to proclaim the Rohtak District. Sober-minded and sober-speaking politicians in the few areas which are proclaimed must, I fear, suffer temporary inconvenience, but they must ascribe that temporary loss of privilege to those firebrands and those who are avowedly disloyal to the British Government."

The Hon'ble MR. JENKINS moved that the Bill be passed. He said: "Your Excellency, I am a newcomer on this Council and I must admit that my head is not sufficiently inured to the stream of oratory which has been poured upon it today, but it has at least given me a very lively idea of what Sydney Smith means by the punishment of being preached to death by wild curates. I hope, however, that in course of time I may become a hardened toper at the fountain of this eloquence. Now I hope the Hon'ble Members who have spoken in opposition to the Bill will take this as an excuse for my not following them into the innermost recesses of their arguments or upon their high flights of oratory. I will endeavour as soon as possible to return to solid ground, which at this time of the afternoon is perhaps what the Council will desire.

"The question, therefore, as it appears to me, is this: is this Bill necessary? Even some of those Hon'ble Members who have spoken in opposition to the

Bill would, I think, support it if they were convinced that it was necessary. Now the argument that it is not necessary is generally based upon the opinion that the state of the country is very much improved. I am aware, and very gladly admit, that the state of the country has improved; but that is not all. We still have with us the party whom I prefer to call the Revolutionary Party, because their aim is revolutionary and nothing else, and they attempt to attain their object by plans of campaign which are very carefully laid and by every device which can be suggested by their not small ingenuity. If Hon'ble Members would wish to have a complete list of all the atrocities that have been committed, of the conspiracies that have been formed, of the secret societies that have been set on foot, of all the means which this revolutionary party has used, and is still using, to overthrow the British Government and to introduce lawlessness and disorder—if they would wish that, then I say they are very bad friends of the country. Such a list could be produced. I do not wish to produce it unless I am compelled to do so. Well, my Lord, I wish to put a very simple question to the Council. When these people use every device within their power to attain their aims, is it in the least degree probable that they will refrain from using the weapon of inflammatory oratory if it should be placed within their reach? It seems to me that upon that question the decision should depend. My Lord, I submit that it is not in the least degree probable that they would refrain from making use of that weapon, and therefore I submit that it is necessary that we should have this Bill; and those who are convinced that the Bill is necessary and that we ought to have it, should, I think, come over to our side. My Lord, I think I might be content to base my case upon that ground, but there are a few things which have been mentioned to which perhaps I should give some attention. It is said to us that it would be a most conciliatory measure to abandon this Bill. Even my friend Sir Vithaldas, I believe, said that we should conciliate the people. Let us think for a moment who the people are whom we are to conciliate. I consider that the idea that we should conciliate honest and loyal people by allowing mischief-makers a free hand is very little removed from an insane delusion. Then, as to the band of revolutionaries; why, one might as well attempt to conciliate a band of dacoits by throwing one's doors open to them. It is said also that any legislation of this kind—it is even hinted that this Bill, if it becomes law—may cause a great deal of discontent, that it may in fact produce sedition.

“At one time I was in charge of a town where there had been an outbreak of cholera, and as we do in such cases we disinfected the wells and other sources of water-supply by putting permanganate of potash into them. Some persons, who ought to have known better, went about amongst the ignorant people and told them that the permanganate of potash was the cause of the cholera. The result was that our people who were engaged in the work had a very bad time of it, as some of our officers in the districts have at present a very bad time. The parallel is exact. The permanganate of potash was the cause of the cholera, and our protective measures are the cause of sedition. Then it is said that we already have in the existing laws sufficient means for dealing with matters of this kind. The state of the case has been explained by His Honour the Lieutenant-Governor and the Hon'ble Mr. Earle. Now, Sir, I have had the misfortune to deal with matters of this kind for some years past, and I have had to consider how far the ordinary law could be enforced. The Hon'ble Members who say that the ordinary law is sufficient look upon it from the outside; but I have had personal experience of it, and I can assure the Hon'ble Members that, with the utmost exercise of ingenuity, we could not make the existing law suffice. And is it probable that, if the ordinary law had been sufficient, we should go through all this trouble in order to provide ourselves with this perfectly useless weapon?

“My Lord, if anything has been said which leads to the conclusion that this Act ought to be placed permanently on the Statute-book, the fault is not mine; it is of those who have forced this discussion upon us. Some Hon'ble Members are firmly convinced that the permanency of the Act during the next cold weather is a foregone conclusion. Well, they know more than I do; but if they will have it so, let it be so, only let it be clearly understood that

"the prediction is theirs and not ours. My Lord, I submit that nothing has been urged which should deter us from proceeding with the Bill. I move that the Bill be passed."

The motion was put and agreed to.

The Hon'ble MR. G. K. GOKHALE: "My Lord, the question has been put to the meeting, but this should have been a separate motion. The speeches up to now have been on the motion that the Bill should be taken into consideration, and there is an official motion that the Bill should be passed. I wanted to say a few words as to that."

The Hon'ble MR. JENKINS: "My motion was that I introduced the Bill, and I moved that it be passed."

The Hon'ble MR. GOKHALE: "I do not wish to take more than a minute, but I do think I must complain of the tone of the opening remarks of the Hon'ble Mr. Jenkins. I do not think that any officer of Government has any reason to be bored to death or anything else if he wants to discharge his duties properly here, because we have also to discharge our duties here, and I do not think anything is gained by introducing such a tone into the debates in this Council. My Lord, you have done so much to introduce a new tone into this Council; you have watched over this Council with the care with which a parent watches over the interests of her child. I do not think that the Hon'ble Mr. Jenkins is justified in introducing such a tone here."

The Hon'ble BABU BHUPENDRA NATH BASU: "My Lord, with Your Lordship's leave I wish to make one observation. A point was made by the Hon'ble Mr. Earle that if a speech like mine could be made in this Council, it was no wonder that speeches of a very grave character might be made in the meetings which are now to be suppressed. I am very sorry, my Lord, that that observation was made, because in my speech that I made here today I studiously avoided any subject which might cause needless offence, and I hope I was strictly within the constitution in offering the few remarks that I ventured to offer to this Council."

The Hon'ble MR. JENKINS: "My Lord, may I explain that I had not the slightest intention of hurting the feelings of the Hon'ble Member, but I perceive that it is not perhaps desirable to indulge in what I considered to be a witticism."

The Hon'ble MR. EARLE: "My Lord, as regards what the Hon'ble Babu Bhupendra Nath Basu has said, I merely meant to convey that his speech was certainly strongly worded in some respects and highly coloured perhaps, and it is perfectly legitimate to speak like that in a Legislative Council. What I meant to infer was that if that was done in a Council like this, subject to all restraint, what must we expect in out-of-the-way places; but I did not intend to convey any imputation whatever as regards the speech of the Hon'ble Member."

HIS EXCELLENCY THE PRESIDENT said:—"I will only add a very few remarks to what the Hon'ble Mr. Jenkins has said to this meeting of Council and on the matter which he has so very ably put before you. I am sorry to say we cannot, none of us can, disregard the existence of a revolutionary party. No one has welcomed with greater pleasure than I have the remarks which have universally fallen from unofficial Members of this Council today, to the effect that the state of the country is infinitely better than it was and that things are improving politically. These views, expressed as they have been by the opponents of the Act, I know to be thoroughly sound and true, and they have been very welcome words to listen to. But, gentlemen, I cannot help telling you that, to myself, there is a personal factor in our proceedings today which I cannot disregard. I cannot but feel that I am at the end of my administration and I do not think it would be right, either by the repeal of the Seditious Meetings Act or by its re-enactment in perpetuity, to commit my successor to a policy of which he had not had sufficient opportunity of judging

and of which he might not approve. I feel very strongly that this Act is one of such enormous importance that it cannot be fittingly considered during a Simla session. The unofficial Members who opposed the Act have done so perfectly legitimately and have expressed their views perfectly straightforwardly and very much to the point. I do not say that I agree with all of them, but they have spoken their views fearlessly, and, I think, generally, with sound commonsense; but I believe they will agree with me that in a very important piece of legislation such as this is, it would not be satisfactory for the country, it would not be satisfactory for India, that we should embark upon a very decided line of policy at Simla and that our action can only be put in effect legitimately in full Council in Calcutta, where every detail of necessary legislation will be fully considered, and where, we may rest assured, that it will be considered carefully and with full and ample knowledge of the state of the country. I do not attempt to foreshadow what that legislation may be, but I am perfectly convinced, and I am sure we may all feel satisfied, that the Act will receive at Calcutta the consideration which it deserves and that my successor will be guided by the opinions he forms of the state of India."

The Council adjourned *sine die*.

SIMLA ;

The 19th August 1910. }

R. SHEEPSHANKS,

Offg. Secy. to the Govt. of India,

Legislative Department.

(36) ed.